COMMONWEALTH OF MASSACHUSETTS

BROCKTON AREA TRANSIT AUTHORITY

Federal Disadvantaged Business Enterprise Program Plan

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BROCKTON AREA TRANSIT AUTHORITY
DISASVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM
In compliance with U.S. Department of Transportation (USDOT) 49 CFR 26 Final Rule

I. PROGRAM AUTHORITY

A. RTA's DBE POLICY STATEMENT

The Brockton Area Transit Authority (hereinafter referred to as the "RTA" is committed to carrying out all pertinent DBE requirements as contained in 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs." The RTA has received federal financial assistance from the USDOT, and as a condition of receiving this assistance, has signed an assurance that it will comply with 49 CFR Part 26. DBEs as defined in Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. It is also the RTA's policy:

- To ensure nondiscrimination on the basis of race, color, national origin or sex in the award and administration of USDOT – assisted contracts;
- To create a level playing field on which DBE's can compete fairly for USDOT- assisted contracts;
- To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
- To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBE's;
- To help remove barriers to the participation of DBE's in USDOT assisted contracts; and
- To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The RTA Administrator is responsible for carrying out the policies and procedures as approved by the Board in the execution of the DBE Program Plan. The designated DBE Liaison Officer is the RTA's Chief Financial Officer who will be responsible for the development, implementation, monitoring, compliance and record keeping functions associated with the program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the RTA in its financial assistance agreements with the Department of Transportation.

The RTA has disseminated this policy statement to the Board, throughout the organization, as well as to DBE and non-DBE suppliers, vendors, contractors and subcontractors that perform or may perform work for the RTA on USDOT-assisted contracts. The Board and Administrator fully intend to see that the provisions of the DBE Program Plan are thoroughly understood by all suppliers, vendors, contractors, and subcontractors and addressed in both the spirit and letter of the final rule.

Additionally, the policy statement will be distributed to the DBE and non-DBE business communities that perform work for BAT on DOT assisted contracts. The policy statement is posted on BAT's website as part of the DBE Program Plan. The DBE goal is also posted on BAT's website and is included in the federal clauses for each procurement.

Brockton Area Transit Authority

7.28.20
Date

By: Michael J. Lambert
Michael J. Lambert, Administrator

B. Applicability

The Brockton Area Transit Authority (BAT) Disadvantaged Business Enterprise (DBE) Program is based on provisions found in 49 CFR Part 26 and thus observes statutory and regulatory requirements as a condition of law and federal funding requirements. The DBE Program will apply to all projects receiving the following types of funds:

Federal transit funds authorized by Titles I, III, VI of the Intermodal Transportation and Efficiency Act (ISTEA) of 1991, Public Law 102-240 or by Federal transit laws in Title 49 CFR, or Titles I, II, and V of the Transportation Efficiency Act for the 21st Century (TEA 21), Public Law 105-178.

C. DBE Program Requirements

In accordance with 49 CFR 26.21, the RTA has a DBE program meeting the requirements of the DBE regulations in response to the RTA receiving funds from any of the following sources and when letting DOT- assisted contracts under the following conditions:

Federal Transit Administration (FTA) recipients that receive $250,000 or more in FTA planning, capital, and/or operating assistance in a federal fiscal year.

The RTA will carry out this program until all funds from DOT financial assistance have been expended. RTA will provide to DOT updates representing significant changes in the program.

D. Objectives

As a recipient of Federal transit funds authorized by Title I, III, V, and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, CFR, or Titles I, II, and V of TEA-21, Pub. L. 105-178, the RTA DBE Program seeks to achieve the following objectives:

1. To ensure nondiscrimination on the basis of race, color, national origin or sex in the award and administration of USDOT – assisted contracts;
2. To create a level playing field on which DBE's can compete fairly for USDOT- assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBE's;
5. To help remove barriers to the participation of DBE's in USDOT assisted contracts; and
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

E. Non-Discrimination Requirements

The RTA will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In the administration of the DBE Program, the RTA will not directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of this program with respect to individuals of a particular race, color, sex, or national origin.

II. Record Keeping Requirements

A. Uniform Report of DBE Awards or Commitments and Payments

The RTA will report DBE participation to the relevant operating administration, the Federal Transit Administration (FTA) using the Uniform Report of DBE Awards and Commitments and Payments with semi-annual due dates of June 1 and December 1, found in Appendix B to the DBE regulation.

B. Assurances

The RTA has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Federal Financial Assistance Agreement Assurance:

RTA shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipient's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the RTA of its failure to carry out its approved program, the Department may impose sanction as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

Contract Assurance:

RTA will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

C. Duties of DBE Liaison Officer (DBELO) and Other Staff

The DBE program function is managed by the DBE Liaison Officer:

Linda Sacchetti, Chief Financial Officer
Brockton Area Transit Authority
155 Court Street
Brockton, Ma 02302
(508) 638-5936
Lsacchetti@ridebat.com

In this capacity, the DBELO is responsible for implementing all aspects of the DBE Program and ensuring that the RTA complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Administrator, Michael J. Lambert, Administrator, concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found as an attachment to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE Program, in coordination with RTA procurement and contracting activities. The duties and responsibilities include:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment and identifies ways to improve progress.
6. Analyzes RTA's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Administrator and Board of Directors on DBE matters and achievements.
10. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
11. Participates in DBE training seminars.
12. Assures the certification of DBEs according to the criteria set by DOT.
13. Provides outreach to DBEs and community organizations to advise them of opportunities.
14. Maintains an updated directory on certified DBEs.

D. Reconsideration Official

In accordance with 49 CFR Part 26.53(d)(2) and 26-87(e), all proceedings by the RTA regarding the reconsideration of compliance with the provisions of the DBE regulation concerning a contract award or the DBE status of a firm shall be made by an official or officer of the RTA that did not take part in the original determination. The Reconsideration Official for the RTA will be the Administrator, Michael J. Lambert. The duties of the Reconsideration Official include:

. Reviews determinations of DBE Liaison Officer
. Monitors DBE Performance
. Monitors Compliance with DBE regulations

E. Other Staff Responsible for Implementation

. Charles C. Stevenson, Esq., General Counsel to the Authority
. Maria Sameiro, Controller of fixed-route operating company, has responsibility for implementation of DBE program within fixed-route operations.
. Jeff Doten, General Manager of paratransit operating company, has responsibility for implementation of DBE program within paratransit operations.

III. Administrative Requirements

A. DBE Financial Institutions

It is the policy of the RTA to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions. The RTA will work with the local Chamber of Commerce and monitor the Supplier Diversity Office web-site to identify DBE financial institutions at least once per year.

B. DBE Directory

The RTA has access to the state directory identifying all firms eligible to participate as DBE's. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. These firms will have been certified per the certification standards listed in Sections 26.61, 26.63, 26.65, 26.67, 26.69, 26.71, and 26.73. The Directory may be found at https://www.sdo.osd.state.ma.us/ The directory is revised at least annually and, for recertification purposes, will determine if the firm is within the criteria of a small business as specified in 13 CFR 121, by SIC Code/NAICS Codes.

C. The DBE Liaison Officer will monitor industries or fields of work to determine if they are so over concentrated with DBEs as to unduly burden the opportunity of non-DBE firms to participate in this type of work. If it is determined there is overconcentration of DBE firms in a certain type of work, the corrective measures outlined in 49 CFR Part 26.33 will be utilized. Examples of measures to address DBE overconcentration in a particular field may include:

. Once that industry is identified, the DBE Liaison Officer will work with a Business Development consultant to develop ways to assist the DBE to move in a non-traditional area of work.

. The DBE Liaison Officer may also work with prime contractors to find and use DBEs in other industry areas.

. Any industry limitations will be explained in the procurement document.

D. Business Development and Mentor Program

1. Business Development Program

One method of providing race-neutral means of DBE participation will be through the Massachusetts Office of Business Development (MOBD) Program. MOBD is the state agency responsible for providing a capacity development program for minority and women businesses seeking to do business with the Commonwealth. The capacity program includes, but is not limited to the following core areas of business development:

. Strategic Planning
. Financial management planning
. Human resource management
. Planning, information technology access and management
. Marketing

2. SOMWBA

Another approach to providing race-neutral means for broader participation will be through SOMWBA's Business Development Program. Each year the Agency schedules a number of training courses, workshops and procurement fairs throughout the Commonwealth that are open to all small businesses. At these sessions RTA staff will have the opportunity to become acquainted with qualified business owners who may supply services or products.

When a company is identified as a potential candidate for a business development program or further technical assistance the company will be encouraged to apply to participate in the previously described MOBD and SOMWBA programs.

E. Monitoring and Enforcement Mechanisms

The RTA will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.37.

1. The RTA will include the provision in all Federally-assisted contracts that the prime contractor may not remove a DBE that is included in the contract without the RTA's approval. The RTA will monitor a contract that includes DBE's to ensure that they are qualified under 49 CFR Part 26 and are in full compliance with the rules and regulations governing DBEs.
2. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or program Fraud and Civil Penalties rules) provided in 26.109.
3. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts. This mechanism will include a written certification that BAT has reviewed contracting records and monitored work sites for this purpose. The monitoring to which this refers may be conducted in conjunction with monitoring of contract performance for other purposes such as close-out reviews for a contract.
4. We will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by certifying that contracting records and the monitored work sites have been reviewed.

F. Fostering Small Business Participation 49 CFR Part 26.39

The RTA has incorporated the following non-discriminatory element to its DBE program, in order to facilitate competition on DOT-assisted projects by small business concerns (both DBEs and non-DBE small businesses), taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.
The following may be included, but not limited to:

. May establish a race-neutral small business set-aside for prime contracts under a stated amount. This set aside will be proposed on a per fiscal year basis in conformity with the DBE program goals and the RTA's capital program.

. For design build or large contracts, require bidders to specify elements of the contract or specific subcontracts that a small business, including DBE's can perform.

. To meet the portion of the RTA's overall goal through race-neutral measures, we will seek to ensure a reasonable number of prime contracts are of size that small businesses, including DBEs, can reasonably perform or, require prime contractors to provide subcontracting opportunities.

The RTA will make its best good faith effort to foster small business participation in our DBE program.

IV. Determining, Meeting and Counting Overall Annual DBE Goal for Federally-Assisted Contracts

A. Methodology Used: Step One, Base Figure; and Step Two Adjustments

In accordance with Section 26.45 the RTA, through the DBE Liaison will set and submit its triennial overall DBE goal to FTA by August 1 of each year. A preliminary budget and the five year Transportation improvement Plan (TIP) and the RTAs capital plan will be used to identify projects that are federally assisted. Senior staff will also be requested to identify projects for the following year. The RTA will also request use of project specific DBE goals as appropriate, and/or will establish project specific DBE goals as directed by FTA.

Statistics will be utilized from the Census Bureau, the Department of Commerce, bidder's lists, and Certified DBEs in each of three categories: construction, professional services, and material and supplies. Consultation will be held with minority, women and general contractor groups as well as other community organizations in an effort to establish a level playing field.

The goal methodology will include a two step process. Step one will include a determination of a base figure for the relative availability of DBEs to participate on RTA federally assisted contracts. Step two will include an examination of all the evidence available in RTAs geographical area to determine what adjustments, if any, are needed to the base figure in order to arrive at the overall annual DBE goal. (Please see appendix B for a description of the goal methodology RTA utilizes in developing an annual DBE goal.) Using data collected regarding concentration, DBE availability of firms ready, willing and able, and other necessary adjustments such as how long each project will span, a goal will be set at the level of DBE participation expected absent effects of discrimination. Within the goal, data will demonstrate the parts of the goal that will be race-conscious and those that will be race-neutral. Any over-concentration of DBEs in a particular trade will be excluded from race-conscious contract goals. The RTA will attempt to meet the maximum feasible portion of the overall goal by using race-neutral means.

The overall goal will be submitted to FTA for review, Notices will be published in one or more general circulation media including but not limited to the Brockton Enterprise and the Vocero Hispano Newspaper, or other minority newspaper as a legal notice. The rationale for the goal will be made available for inspection during normal business hours for 30 days following the date of the notice, and comments will be accepted on the goal for 45 days from the date of the modes.

B. Transit Vehicle Manufacturers (TVMs) Participation and Qualifications

RTA will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA assisted transit vehicle procurement, to certify that it has complied with the requirements of this section. Or, the RTA may, at its discretion and with FTA approval, establish project specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this section.

C. Using Race-Neutral and Race-Conscious Measures to establish DBE Annual and Contract Goals

RTA will establish an overall goal for DBE participation in DOT-assisted contracts. The over-all goal will be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on RTA's DOT-assisted contracts.

1. . Race-Neutral Methods

RTA will meet the maximum feasible portion of the overall goal by using race-neutral means of facilitating DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contractor that did not consider its DBE status in making the award.

*Examples of race-neutral means (but not all-inclusive) used to facilitate DBE participation:

- Arranging solicitations, time of bids, quantities, etc; to facilitate participation by DBEs.
- Provide technical assistance and other services to DBEs.
- Ensure wide distributions of DBE directory.
- Provide DBEs information on contract opportunities

3. . Race-Conscious Methods

Each time RTA establishes an annual DBE goal, the goal will include a projection of the portion of the goal that RTA expects to meet through race-neutral means and the basis for the projection. Contract goals are

established to meet any portion of the overall goal RTA does not project being able to meet using race-neutral means. DBE race-conscious contract goals are used only on those DOT-assisted contracts that have subcontracting possibilities. Contract goals are established so that they will cumulatively result in meeting any portion of RTAs overall goal that is not projected being able to meet through the use of race-neutral means.

**Examples of race-conscious means (but not all-inclusive) used to facilitate DBE participants:

- Establish contract specific DBE goals for solicitations that have subcontracting possibilities.
- Actively solicit DBE firms.

D. Good Faith Efforts (Please Note: Efforts are ongoing to establish common language or a uniform definition for this subject area among state transportation agencies.)

To award a contract to a bidder/proposer that has failed to meet the DBE contract goals RTA will decide whether the bidder/proposer made a Good Faith Effort to actively and aggressively seek DBEs to meet those goals. The Good Faith Efforts Committee which consists of the DBE Liaison Officer, Legal Counsel, and the Project Director, will review the documentation and determine if certain requirements have been met.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information either under sealed bid procedures as a matter of responsiveness, or with initial proposals under contract negotiation procedures; or at any time before a commitment to the performance of the contract:

- The names and addresses of DBE firms that will participate in the contract;
- A description of the work that each DBE will perform;
- The dollar amount of the participation of each DBE firm participation;
- Written documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
- Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and,
- If the contract goal is not met, evidence of good faith efforts.

The kinds of efforts that will be considered demonstrative of "Good Faith Efforts" include, but are not limited to, the following:

- Whether the contractor solicited through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract.
- Whether the contractor solicited interest within sufficient time to allow the DBEs to respond and if appropriate steps were taken to follow up with interested DBEs.
- Whether the contractor selected portions of the work to be performed by DBEs and where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when

the prime contractor might otherwise prefer to perform these work items with its own forces.

- Whether the contractor negotiated in good faith with interested DBEs. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting and evidence as to why additional agreements could not be reached.
- Whether the contractor made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- Whether the contractor made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
- Whether the contractor effectively used the services of available minority/women community organizations, contractors groups and other organizations to provide assistance in the recruitment and placement of DBEs.
- Whether other bidders on the procurement met the DBE goal. If the GFE Committee determines that the apparent successful bidder/proposer has failed to meet the GFE requirements, the bidder/proposer has an opportunity for administrative consideration. The reconsideration official will be a member of the RTA staff who did not take part in the initial GFE decision.

The bidder/proposer will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate GFE to do so. They will also be permitted, upon request, to meet in person with the reconsideration official to discuss the issue.

RTA will send the bidder/proposer a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or made adequate GFE to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

A contractor must also make a GFE to replace a defaulting DBE with another certified DBE. The prime contractor must notify the DBE Liaison immediately of the DBEs inability to perform and provide reasonable documentation. The contractor must receive prior approval on the substitute DBE from the RTA. The contractor must provide copies of new or amended subcontracts and a completed certification form for each new DBE, or any applicable good faith efforts.

If the contractor fails or refuses to comply in the time specified, RTAs Contracting Office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the Contracting Officer may issue a termination for default proceeding.

E. Counting DBE Participation

Only the work actually performed by a DBE will be counted towards the DBE goal. The cost of supplies and materials obtained by the DBE or equipment leased (except from the prime contractor or affiliate) may also be counted.

Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals. Expenditures may only be counted if the DBE is performing a commercially useful function. A DBE should perform at least 30 percent of the total cost of its contract with its own work force. Decisions on commercially useful function are subject to review by the FTA, but are not administratively appealable to DOT.

If materials or supplies are obtained from a DBE manufacturer, 100 percent of the cost will be counted. If the materials or supplies are purchased from a DBE regular dealer, 60 percent of the cost will be counted.

DBE achievement will not be counted toward the overall goal until the DBE has been paid.

F. Quotas, Set-Asides, and Penalties
RTA will not use set-asides or quotas on any solicitation.

V. Required Contract Provisions

A. Nondiscrimination Assurance
Each financial assistance agreement that the RTA signs with the FTA or other DOT operating administration shall include the following statement:

"The recipient shall not discriminate on the basis of race color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contract. The recipient's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement.

Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the RTA of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.SC. 1001 and/or the Program Fraud Civil Remedies Act of 1996 (3 U.S.C. 3801 et seq.)"

Each contract the RTA signs with a contractor, and each subcontract a prime contractor signs with a subcontractor, shall include the following statement or similar to:

"The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out the requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate."

B. Advertisement
All invitations to bid shall include the following language or similar to:
"Minority business enterprises are encouraged to respond to this solicitation notice."

C. DBE Notification – Procurement Above the Level of Small Procurement
The procedures for notifying the certified DBE community of RTA procurement opportunities above the level of small procurement ($250,000) are as follows"

1. Direct DBE Solicitation
    a. Certified businesses listed in the SOMWBA Directory with experience in the supply/service being procured and which may be reasonable expected to be interested shall be informed about the solicitation through electronic bulletin boards and other established channels of communication

b. Notice will be circulated in appropriate daily and weekly publications, including those publications catering to the minority community. Copies of solicitation notices will also be forwarded to the following organizations:
    i. DBE Technical Assistance Organizations
    ii. Appropriate DBE Business Associations
    iii. Appropriate DBE Trade Associations
    iv. The State Office of Affirmative Action

2. Subcontracting Opportunities
    a. Each contract above the level of small procurement shall be assessed as to the potential for DBE procurement participation for such purchases. Supply, maintenance, and service contracts shall contain a DBE subcontract participation goal consistent with these procurement procedures.

    b. Whenever the RTA establishes a subcontract goal for a contract, each prime contractor must solicit quotations form certified DBEs. Contractors may obtain the names of certified DBEs from the SOMWBA Directory, which is available online via the Internet at *https://www.sdo.osd.state.ma.us/*

    c. The following statement will appear in bid documents when subcontracting to DBEs is indicated:
    "A certified DBE subcontract participation goal of 6.2 percent of the contract has been established for this procurement. The bidder or offerer agrees that unless a formal waiver is requested and is granted that not less than this amount of the contract will be performed by disadvantaged business enterprises."

D. DBE Notification – Small Procurement
For small procurement (below $250,000), the cognizant procurement official shall make a concerted effort to attain the RTA goal by direct solicitation from certified DBEs for each procurement category.

E. Recurring Contracts
Each fiscal year, the RTA will develop, in writing, a complete listing of the approximate solicitation dates of known regularly recurring procurement opportunities of ($100,000) or more. The list shall include the category of the contract, where the work is to be performed, or delivery made, and the name and telephone number of the cognizant agency official.

F. Contract Awards – Supply and Services
1. Direct Procurement
    a. Firms interested in furnishing supplies or providing a service in accordance with federally assisted contract provisions must be a bona fide DBE and be certified as such by SOMWBA.
    b. Failure of a DBE to furnish requested information within 10 working days of bid opening may result in the firm being disqualified and the bid determined as not responsive.
2. Subcontracting to DBEs

a. Based upon the RTA procurement official's evaluation and approval of the proposed DBE goal for the subject contract, a contract may be awarded to the successful bidder according to standard procurement practices and procedures.
b. The apparent low responsive and responsible bidder will provide the cognizant RTA official with the following items:
    1. A completed Schedule for Participation of Minority Business Enterprise Form
    2. RTA Minority Contractor Project Disclosure and Participation Statement

3. Failure of a Bidder to Furnish Information or Otherwise Participate
A bidder's failure to participate in any of these proceedings or failure to furnish information after a RTA written request for same may result in a bid rejection on the basis of non-responsiveness and not awarding the contract to the apparent low bidder.

4. Amendment for Unforeseen Circumstances
If, at any time before the contract award, an unsuccessful bidder has reason to believe that a DBE listed as a participant in the successful bid award is ineligible, unqualified or otherwise unavailable to participate, it must be reported to the RTA cognizant procurement official. Within five (5) working days, the apparent low bidder must, if necessary to achieve the stated goal for the DBE participation, make every reasonable effort to amend the participant list.

G. DBE Goal Waiver Request
If for any reason, a bidder or offeror is unable to achieve the established DBE goal, the bidder or offeror may submit a written request for an exception to the goal as outlined below:

i. If a bidder or offeror is unable to achieve the DBE participation goal, they must provide a detailed statement of the good faith efforts made to select portions of the work/service/supply proposed to be performed by DBEs and a detailed statement of the good faith efforts made to contract and negotiate with SOMWBA certified DBEs. The statement to include: 1) name, address and telephone number of certified DBEs contacted with dates; 2) description of the information provided the DBEs regarding the plans, specifications and anticipated time schedule for portions of the work to be performed; 3) a detailed statement of the reasons why a quotation was considered unacceptable; and 4) a list of ready, willing and able certified DBE subcontractors found to be unavailable.
Each waiver request shall be accompanied by a Minority Contractor Unavailability Certificate signed by the DBE or a statement by the bidder or offeror that the DBE declined to provide written certification.

ii. An affidavit completed and signed by the prime contractor stating that in the solicitation of subcontracts, quotations or offers, DBE subcontractors were provided the same information and amount of time to respond as were non-DBE subcontractors and the solicitation process was conducted in such a manner as to otherwise not place DBE subcontractors at a competitive disadvantage to non-DBE subcontractors.

iii. Any other documentation considered appropriate by the cognizant RTA procurement official to ascertain bidder compliance in responding to the subject

contract DBE participation goal. The contractor, by submitting a bid or offer, consents to provide such documentation as may be requested by the RTA pursuant to the compliance section, and to provide right of entry at any reasonable time to an RTA representative for the purpose of verifying compliance with DBE subcontractor requirements.

H. RTAs Prompt Payment Policy and Provisions:

All Prime contractors are required to pay subcontractors for satisfactory performance of their contracts no later than thirty days from receipt of each payment received by them from BAT. Also, all prime contractors must return retainage payments to subcontractors within 20 days of the subcontractor satisfactorily completing its work. Prime contractors will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed. Any delay or postponement of payment between prime and subcontractors may take place only for good cause, and with BAT's prior approval.

If a prime contractor determines work to be unsatisfactory, it must notify BAT's Liaison Officer immediately, in writing, and state the reasons. Failure to comply with this requirement will be construed to be a breach of contract and subject to contract termination.

The following statement shall be in each RTA contract:

"The prime contractor must pay subcontractors for satisfactory performance of their contracts no later than 30 days from the receipt of payment made to the prime by RTA. Prompt return of retainage payments from the prime contractor to the subcontractor will be within 20 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment among the parties may take place only for good cause with RTA's prior written approval

VI. CERTIFICATION STANDARDS

A. Burden of proof

A firm seeking certification has the burden of demonstrating, by a preponderance of evidence, that it meets the requirements concerning group membership or individual disadvantage, business size, ownership, and control.

B. Group Membership Determinations

RTA will rebuttably presume that numbers of the designated groups, who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, or other minorities found to be disadvantaged by the SBA, are socially and economically disadvantaged individuals.

C. Social and Economic Disadvantage Determinations; Statement of Personal Net Worth

Each individual owner of a firm applying to participate as a DBE whose ownership and control are relied upon for DBE certification must submit, notarized statement of personal net worth, with appropriate supporting documentation, excluded in determining personal net worth are the individual's ownership interest in the applicant firm and the individual's equity in his or her primary residence. A personal net worth statement is being developed and will be incorporated herein. At present BAT will use the SOMWBA statement, a copy of which is attached.

Individuals who are not presumed to be socially and economically disadvantaged may apply for DBE certification and SOMWBA will make a case by case determination using the criteria as cited in Appendix E to Part 26.

D. Business Size Determinations

A firm must be an existing small business as defined by Small Business Administration standards. However, a firm is not an eligible DBE in any federal fiscal year if the firm (including its affiliates) has had average annual gross receipts over the firm's previous three fiscal years, in excess of $16.6 million.

E. Ownership and Control Determinations

To be an eligible DBE, a firm must be at least 51 percent owned by socially and economically disadvantaged individuals. The firm's ownership by socially and economically disadvantaged individuals must be real, substantial, and continuing, going beyond pro forma ownership of the firm as reflected in ownership documents. The contributions of capital or expertise must also be real and substantial.

The owner's expertise must be:

- In a specialized field.

- Of outstanding quality.
- In areas critical to the firm's potential operations.
- Indispensable to the firm's potential success.
- Specific to the type of work the firm performs.
- Documented in the records of the firm clearly showing the contribution of expertise and its value to the firm.

F. Other Considerations

RTA will consider whether a firm performs a commercially useful function or is a regular dealer in deciding how to count that DBE firm's participation towards the prime contractors' DBE goal attainment. The only instance in which the RTA will consider the effect of a DBEs commercially useful function in a certification is when, in accordance with 49 CFR 26.73, the DBE firm has exhibited a pattern of conduct indicating its involvement in attempts to evade or subvert the intent or requirement of the DBE Program.

For a complete discussion of the certification standards exercised by RTA, please refer to SOMWBA's Certification Policies and Procedures Manual.

VII. Certification Procedures

A. United Certification Program

The RTA has developed, in cooperation with SOMWBA and other Commonwealth of Massachusetts DOT recipients, a Unified Certification program (UCP) for DBE certification applicants.

B. Initial Certification Procedures

PROCEDURES FOR CERTIFICATION DECISIONS

The RTA affirms that the following steps will be taken to ensure that only firms certified as eligible DBEs participate in the RTA DBE program:

- Perform on-site visits to the offices of the firm. Interview the principal officers and review their resumes and/or work histories. Visit job sites the firm is working at.
- Analyze the ownership of stock in the firm.
- Analyze the bonding and financial capacity of the firm.
- Determine the work history of the firm, including contracts it has received and work it has completed.
- Obtain a statement from the firm of the type of work it prefers to perform as part of the DBE program and its preferred locations for work.
- Obtain a list of the equipment owned by or available to the firm and the licenses the firm and its key personnel possess to perform the work it seeks to do.
- Require potential DBEs to complete and submit an appropriate application form.

All of the requirements in Subpart D, Certification Standards, are referenced herein and will be used to determine eligibility for DBE certification.

C. Recertification Procedures

Once a firm has been certified as a DBE, it remains certified for a period of three years, or unless its eligibility is removed by the RTA through procedures outlined in 49 CFR 26.87. All DBEs must inform RTA or the UCP in writing of any change in circumstances affecting the ability to meet size, disadvantaged status, ownership, or control requirements of the RTAs DBE Program or any material change in the information provided in your application form.

D. Denials and Reapplication Procedures

A firm that is denied certification will be provided a written explanation of the reasons for the denial, specifically referencing the evidence in the record which supports each reason. Documents and other information on which the denial is based will be made available to the applicant upon request.

A firm may reapply for certification within one year from the date of the denial.

E. Removal Procedures

Any person may file a written complaint alleging that a currently certified firm is ineligible and specifying the alleged reasons why the firm is ineligible. The RTA is not required to accept a general allegations or an anonymous complaint. If there is reasonable cause to believe the allegations, RTA will provide written notice to the firm setting forth the reasons. If it is determined that reasonable cause does not exist, the complainant will be notified in writing and the reasons for it.

FTA may determine that information in the certification records, or other information available, provides reasonable cause for eligibility removal and way direct initiation of a proceeding to remove the firm's certification.

Firms will be given an opportunity for an informal hearing at which time the firm may respond to the allegations made and why it should remain certified.

A complete record of the hearing will be maintained. The decision in a proceeding to remove a firm's eligibility will be made by an office and personnel that did not take part in actions leading to, or seeing to implement, the proposal to remove the firm's eligibility.

F. DOT Review of Certification Decisions

APPEALS TO THE DEPARTMENT of TRANSPORTATION

Anyone wishing to file an appeal must send a letter to the Department within 90 days of the date of the recipient's final decision, including information and arguments concerning why the recipient's decision should be reversed.

Send appeals to : U.S. Department of Transportation
Office of Civil Rights
Certification Appeals Branch
400 7th Street, S.W., Room 2104
Washington, D.C. 20590

VIII. Monitoring and Record Keeping

A. Bidders List

The RTA will also require all prime contractors bidding on DOT assisted contracts to furnish at the time of bid opening (options may be exercised as to the time this information is required so long as it is prior to award of the contract) the following information about the prime contractor and all subcontractors who provided bid to the prime contract:

- Firm Name
- Firm address
- Firm's status as a DBE or Non-DBE

- Age of the firm
- Annual gross receipts of the firm
- Scope of work
- Dollar amount

If the information is not returned with the bid, the bidder/proposer will be deemed non responsive. The specific information contained and the form will be used for statistical purposes only and will not be considered in the decision making progress of awarding the contract.

B. Records and Reports

1. The bidder will keep such records as are required by the RTA to determine compliance with its certified business utilization obligations. These records, to be kept by the bidder, are designed to identify:
    a. The type and actual values of work performed, goods furnished or services rendered, and copies of payments to certified and non-certified businesses;
    b. Documentation of all correspondence, contacts, telephone calls, etc., to obtain the services of certified DBEs on the procurement.
2. The bidder shall, on an agreed upon periodic basis, submit reports on subcontract performance and other business transactions entered with certified DBEs with respect to the records as referenced in subparagraph 1.a. above, in such format and content as prescribed by the RTA.

   Such reports shall be submitted in a timely manner as requested by the RTA. If, for any reason, a report cannot be submitted on time, the contractor must notify the cognizant RTA official to that effect and request additional time to furnish the report. Failure of the contractor to submit reports in a timely manner may result in a finding of breach of contract due to non-compliance.

3. This reporting requirement also extends to any certified DBE subcontractor.

4. All such records must be retained for a period of three years following completion of the contract work and will be available for inspection by a RTA representative and/or SOMWBA officials.

5. An RTA representative or SOMWBA officials will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

C. Reporting to U.S. DOT

The RTA will continue to report DBE participation and annual overall goal setting methods to the Federal Transit Administration as directed. Statistical data will be maintained as prescribed. RTA will provide reports to FTA on the appropriate timely basis (monthly, quarterly, semi-annually, or annually) which reflect the DBE participation on federally-assisted procurement activities. These reports will provide DBE participation information on race-neutral contracts;

race conscious contracts; and the combined DBE participation on all RTA federally-assisted procurement activities.

IX. Public Participation and Outreach Efforts

Activities designed to foster and promote public participation and outreach are directed toward assisting the RTA to solicit public input to set overall DBE participation goals; and meet their overall DBE goals.

In establishing an overall DBE goal, RTA will provide for public participation. This will include:

. RTA Consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the liability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBE's and RTA efforts to establish a level playing field for the participation of DBE's.

. Publishing an annual notice announcing the proposed overall DBE goal and informing the public that the rational and data used to establish the proposed DBE goal are available for inspection during normal business hours at the RTA office. This notice is published annually for a period of 30 days. RTA and US DOT will accept comments on the goals for 45 days from the date of the notice. The RTA notice is distributed to the general circulation media; local minority-focused media; and trade association publications and or websites.

In conjunction with RTA's activities to meet overall DBE goals, SOMWBA, RTA and its contractors will implement various public participation and outreach activities designed to promote and assist RTA in the recruitment and utilization of DBE's as both prime contractors and subcontractors.

Public participation activities are initiated either by RTA, SOMWBA or participating prime contractors using suggested activities as referenced in 49 CFR Part 26.51.

APPENDIX A

PROGRAM DEFINITIONS

The following explanation of terms have been provided to ensure consistent definition of key words and terms associated with the RTA's DBE Program.

ACT -- The Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17) and Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 104-12).

ADMINISTRATION -- Any one of the Administrations within the Massachusetts Department of Transportation (Massachusetts Bay Area Transit Authority, Massachusetts State Highway Administration, Massachusetts Port Administration, Massachusetts Aviation Administration, Massachusetts Motor Vehicle Administration, and the Office of the Secretary).

ADMINISTRATION REPRESENTATIVE -- A DBE Officer or employee of the RTA or other state Agency who deals with the laws and regulations pertaining to disadvantaged and minority business enterprises and contract compliance.

ADMINISTRATIVE LAW JUDGE --An official of the Office of Administrative Law who presides over contested decertification hearings.

ADMINISTRATOR -- The chief executive of the agency which is charged with implementation of the DBE Program for the state..

AFFILIATION - - Has the same meaning the term has in the Small Business Administration (SBA) regulations, 13 CFR Part 121.

1. Except as otherwise provided in 13 CFR Part 121, concerns are affiliates of each other when, either directly or indirectly:

    c) One concern controls or has the power to control the other; or,
    d) A third party or parties controls or has the power to control both; or
    e) An identity of interest between or among parties exists such that affiliation may be found.

2. In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affiliates must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of firms in the DBE program.

AFFIRMATIVE ACTIONS -- Specific steps taken to eliminate discrimination and its effects, to ensure nondiscriminatory results and practices in the future, and to involve disadvantage and minority business enterprises fully in state and federally funded contracts and programs.

AFFIRMATIVE MARKET PLAN - - The use of racial and gender based classifications for the purposes of remedying past discrimination and promoting other, non-remedial objectives such as the delivery of effective human services in the areas of public health, safety and welfare.

AFFIRMATIVE MARKET PROGRAM -- Activities of the Commonwealth of Massachusetts designed to promote equality in the public marketplace and to encourage the full participation minority and women owned businesses in all areas of state contracting, including contracts for construction, design, goods and services.

AFRICAN AMERICAN/BLACK AMERICAN -- A person having origins in any of the black racial groups of Africa and is regarded as such by the African American community of which the person claims to be a part.

ANALYST/AGENT -- A staff member of the State Office of Minority and Women Business Assistance (SOMWBA) who conducts investigations in response to requests for DBE certification and/or recertification.

ANNUAL RECEIPTS -- For the purpose of determining annual receipts of a business concern, the RTA is incorporating into this document by reference 13 CFR, Part 121 Section 121.402 Annual Receipts.

APPLICANT -- A business which has applied to a state Agency for certification as a bona fide DBE.

APPLICATION -- The Disclosure Affidavit which is completed by an applicant for certification or for recertificaton.

BROKER -- An agent of a buyer or a seller who buys or sells stock, bonds, commodities, or services, usually on a commission basis. For purposes of DBE certification, only brokers who are recognized in their respective industry prior to the establishment of the DBE Program will be certified. Included are Insurance Brokers.

BUSINESS -- A for-profit legal entity which is organized in any form other than as a joint venture (e.g., sole proprietorship, partnership, corporation, etc.) to engage in lawful commercial transactions.

CERTIFICATION -- The process by which a business is determined to be a bona fide DBE.. Certification is required for counting the DBE contract participation to meet a contract DBE participation goal. A firm that is not certified may be included and may participate on any contract. The participation of that firm cannot be used to meet the contract goal.

CERTIFIED BUSINESS -- A business which has met the qualification as determined by regulation and has been certified as a bona fide DBE. Certification does not equate to a pre-qualification status.

CHAIR/MWBEOC -- The person designated to preside over meetings of the Massachusetts Minority and Women Business Enterprise Advisory Oversight Committee.

COMMERCIALLY USEFUL FUNCTION -- Work performed by a DBE in a particular transaction can be counted towards goals only if the Administration determines that it involves a commercially useful function. A certified business is considered to perform a commercially useful function when it is responsible for the execution of a distinct element of the work of a contract and carries out its responsibilities by actually performing, managing and supervising the work involved. That is, in light of industry practices and other relevant considerations, the DBE must have a necessary and useful role in the transaction of a kind for which there is a market outside the context of the DBE Program. The firm's role cannot be a superfluous step added in an attempt to obtain credit goals.

COMMISSION -- Represents monies charged for commercially useful and bona fide services.

COMPETENCY -- Competency is not an issue in determining if a firm meets the criteria for certification as a DBE. In reviewing the firm's operations, SOMWBA evaluates: (1) evidence of financial responsibility; (2) evidence of ability to perform the work or service; and, (3) evidence of actual contract performance. These factors assist SOMWBA to determine if the firm is functioning independently and under managerial and operational control of the applicant.

To aid in the review of operational and management control if the applicant is a new business and has engaged in no contracts, a reasonable business plan will be prepared and submitted with the application for DBE certification in lieu of evidence of actual contract performance. A DBE must demonstrate technical knowledge in the area for which his/her business is certified and demonstrate evidence of supervision and management of his/her work force.

Since the status of firms may fluctuate according to external factors (economy, interest rates, etc.), RTA cannot guarantee that DBE's determined at the time of original certification to be bona fide and are able to work throughout the life of the certification period.

Competency as it relates to contract performance shall be an element to be considered in contract administration. In order to continually monitor the competency of certified minority and socially and economically disadvantaged business enterprises, RTA's DBE Liaison Officer will ensure that the appropriate reports are promptly completed and forwarded to the proper Agency. These reports will become an integral element in the recertification process.

COMPLIANCE - - Means that a recipient has correctly implemented the requirements of the subject part(s).

CONTRACT - - Means a legally binding relationship obligating a seller or provider of goods and services (including, but not limited to, construction and professional services) and the buyer to pay for them.

CONTRACT COMPLIANCE OFFICER -- The official who is responsible for monitoring contracts for compliance with Federal DBE regulations regarding nondiscrimination in RTA's DBE Program.

CONTRACTOR/SUBCONTRACTOR-- One who participates through a prime contract, second tier subcontract, or lease agreement, in any matter covered by this Program. For the purposes of the

DBE Program, a consultant will be defined as a contractor/subcontractor.

CONTROL -- The power of the business owner(s) to direct the management and operation of a business enterprise. (See Operational Control and Managerial Control.)

CORPORATION -- An artificial person or legal entity created by or under the authority of the laws of any state of the United States, the District of Columbia or a territory or commonwealth of the United States and formed for the purpose of transacting business in the widest sense of that term, including not only trade and commerce, but manufacturing, mining, banking, insurance, transportation and other forms of commercial or industrial activity where the purpose of the organization is profit. For eligibility for certification, disadvantaged and/or minority individuals must own at least 51 percent of the voting stock and at least 51 percent of the aggregate of all classes of stock that have been issued by the corporation. (Note: stock held in trust is not considered as stock held by the disadvantaged business persons when computing the business person(s) ownership.)

DAY -- Any day except Saturdays, Sundays, and legal State holidays.

DECERTIFICATION -- Specific administrative steps taken to remove the certification from a business which had been previously certified by the certifying agency.

DEPARTMENT -- The Massachusetts Executive Office of Transportation and Construction.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) —

A. (Reference 49 CFR, Part 26, Subpart A) a small business concern:

(1) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals. Where stock ownership is involved, the disadvantaged owner(s) must own at least 51% of each class of voting stock and at least 51% of the aggregate of all classes of stock that have been issued (also applies to publicly owned businesses); and

(2) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who have ownership.

B. A 'Disadvantaged Business Enterprise" shall be defined as a minority business certified by the State Office of Minority and Women Business Assistance (SOMWBA) or another state Agency. A "Woman Business Enterprise" (WBE) shall be a business certified as such by SOMWBA or another state agency.

DISABLED -- A condition describing a person who has a physical or mental impairment that substantially limits one or more major life activity. This may include caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing or learning. The disability is of a nature that it permanently limits a person (or his/her firm) from obtaining contracts. A person with disabilities must be able to demonstrate that: (1) he/she has a history or

the disability; (2) he/she is generally regarded as having such disability; and (3) the disability has substantially limited his/her ability to engage in competitive business.

DBE DIRECTORY -- A compilation of businesses certified by the state certification agency as a disadvantaged or minority business or a socially and economically disadvantaged business. The directory shall be published annually with quarterly supplements.

DBE PROGRAM -- A program developed by the RTA to implement the requirements of 49 CFR, Part 26, for all FTA Financial Assistance Programs.

DBE PARTICIPATION PACKET -- The documents submitted by the bidder or proposer pursuant to the appropriate special bid provisions.

EXECUTIVE DIRECTOR - - The individual designated by the Secretary of the Executive Office of Administration and Finance as being responsible for the direction and management of the State Office of Minority and Women Business Assistance. The position includes responsibility for the establishment of DBE policy and certification procedures affecting all executive offices, agencies, departments, boards and commissions of the Commonwealth.

EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE (EOAF) - - The office designated by the Governor of the Commonwealth of Massachusetts as having responsibility for carrying out the Affirmative Market Program of the Commonwealth.

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION - - The office of the Commonwealth with responsibility for public transportation policy development and program implementation.

FEDERAL-AID CONTRACT -- Any contract awarded to any contractor by the RTA, whose funds are derived in whole or in part from the U.S. DOT. This also includes consultant agreements, modification of contracts, and leases.

FEE -- A fee is money charged for providing a commercially useful and bona fide' service.

A recipient or contractor may count towards its DBE goals the following expenditures to DBE firms that are not manufacturers or regular dealers:

A. The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the contract, provided that the fee or commission is determined by the recipient to be reasonable and not excessive as compared with fees customarily allowed for similar services.

B. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies provided that the fee is determined by the recipient to be reasonable and

not excessive as compared with fees customarily allowed for similar services.

C. The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the contract, provided that the fee or commission is determined by the recipient to be reasonable and not excessive as compared with fees customarily allowed for similar services.

GOAL, CONTRACT -- Overall program goals must be submitted to U.S. DOT for approval annually, however, "contract goals need not be submitted to the U.S. DOT for approval, but the Program shall contain a description of the methodology to be used in establishing them." 49 CFR Part 26.45 (Subpart C).

The overall RTA DBE program goal is set annually. A contract goal may be higher or lower than overall goals. When establishing contract goals, the following will be used as goal determining factors:

A. Items of work which feasiblely and reasonably can be sublet;

B. Availability of certified businesses within a reasonable geographical area in which the contract is to be performed; and

C. Contracts which hold the greatest business potential for the minority business enterprise community.

GOOD FAITH EFFORT (GFE) -- Documented efforts on the part of a bidder which were intensive, aggressive and of a sincere nature for a specific project far beyond a simple paperwork exercise.

GROSS RECEIPTS -- Same as Annual Receipts.

JOINT VENTURE -- A joint venture is a limited legal entity engaged in the joint pursuit of a particular transaction for mutual profit. Joint ventures require special analysis to determine what percentage of the dollar value of the prime contract should be credited toward a contract DBE goal.

Because a joint venture consists of enterprises temporarily brought together, a joint venture itself can never be certified. This is true even though most or all of its component elements are certified DBE businesses. A joint venture, therefore, is an association or two or more businesses (sole proprietorships, partnerships, corporations, or any combination thereof) formed to carry on a single business activity which is limited in scope and duration. A joint venture is an association which is intended to exist only for a single business endeavor .

Ordinarily the amount of money invested in a joint venture reflects the percentage of participation by the parties of a joint venture. Only the money paid to a certified DBE in a joint venture may be credited by a prime contractor toward reaching a DBE goal unless the non-minority prime contractor has certified DBE as subcontractors, which may also be counted.

A joint venture agreement must reveal the scope of the DBE's managerial and financial responsibilities. A joint venture cannot serve as a conduit to meet the DBE contract goal in a situation in which the DBEs are not given the opportunity to make and exercise independent judgments as a viable joint venture. The Massachusetts Executive Office of Administration and Finance Joint Venture Disclosure Affidavit is required for contract administration for joint ventures for RTAs.

LIMITED LIABILITY COMPANY -- A permitted form of unincorporated business organization having two (2) or more members which is organized and existing under certain federal and state laws and annotated codes.

LESSEE -- A business or a person who leases, or is negotiating to lease property from the RTA or the U.S. DOT in an RTA or U.S. DOT facility for the purpose of operating a transportation-related activity or for the provision of goods or services to a facility or to the public in a facility.

MANAGERIAL CONTROL -- Control in this instance means that a disadvantaged or minority owner(s) has the demonstrable ability to make independent and unilateral business decisions needed to guide the future and destiny of a business.

Control may be demonstrated in many ways. For a minority owner to demonstrate control, the following examples are put forth, but are not intended to be all inclusive:

A. Articles of Incorporation, Corporate Bylaws, Partnership Agreements and other agreements shall be free of restrictive language which would dilute the minority owner's control thereby preventing the minority owner from making those decisions which affect the destiny of a business;

B. The minority owner shall be able to show clearly through production of documents the areas of the disadvantaged business owner's control, such as, but not limited to:

1. Authority to sign payroll checks and letters of credit;

2. Authority to negotiate and sign for insurance and/or bonds;

3. Authority to negotiate for banking services, such as establishing lines of credit;

4. Authority to negotiate and sign for contracts.

C. Agreements for support services that do not lessen the minority owner's control of the company are permitted as long as the disadvantaged or minority business owner's authority to manage the company is not restricted or impaired.

MANUFACTURER REPRESENTATIVE - - A business that transfers title of a product from a manufacturer to an ultimate purchaser (e.g., a sales representative who invoices a steel product

from the steel company to the contractors). Such a business would not be considered a "Regular Dealer." The contractor could not receive credit based on a percentage of the cost of the product for working with such firms. Only the fee received by the manufacturer's representative can be counted towards a DBE goal. For example: use of a disadvantaged or minority sales representative or distributor for a steel company, assuming it is performing a commercially useful function, would entitle the contractor receiving the steel to count only the fee paid to the representative or distributor towards its goal. No portion of the price of the steel could count towards the goal. Basically, manufacturer's representatives and brokers are treated alike and only their fees for services can be counted.

MANUFACTURER -- A firm that produces a product from raw materials or substantially after a previously manufactured product by operating or maintains a factory or establishment that produces on the premises.

MINORITY OR MINORITY PERSON - -

A. For Federal-Aid Contracts Under 49 CFR, Part 26, Subpart D (FHWA and FTA) - Those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black/African Americans, Hispanic Americans, Native Americans, Asian-Indian Americans, Asian Pacific Americans, women and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to section 8(a) of the Small Business Act. SOMWBA shall make a rebuttable presumption that individuals in the groups listed below are socially and economically disadvantaged. SOMWBA shall also determine and identify, on a case-by case basis, those individuals who are not members of the following groups, but who are socially and economically disadvantaged:

f. African Americans/Black Americans -- Persons having origins in any of the Black racial groups of Africa, and who are regarded as such by the community of which the persons claim to be a part;

g. Hispanic Americans - Persons of Mexican, Puerto Rican, Cuban, Central or South American, Portuguese, or other Spanish culture or origin, regardless of race, and who are regarded as such by the community of which the persons claim to be a part;

h. Native Americans -- American Indians, Eskimos, Aluets, or Native Hawaiians, and who are regarded as such by the community of which the persons claim to be a part;

i. Asian-Pacific Americans -- Persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, or the Northern Marianas, and who are regarded as such by the community of which the persons claim to be a part; and

j. Asian-Indian Americans -- Persons whose origins are from India, Pakistan,

or Bangladesh, and who are regarded as such by the community of which the persons claim to be a part.

k. Women -- Women shall include all women, regardless of race or ethnicity.

NONCOMPLIANCE - - Means that a recipient has not correctly implemented the requirements of the part(s) of the subject guidance.

OPERATIONAL CONTROL - - The disadvantaged or minority owner (s) must possess knowledge necessary to evaluate technical aspects of the business entity. The primary consideration in determining operational control and the extent to which the disadvantaged or minority owner (s) actually operates a business will rest upon the specialities of the industry of which the business is a part. The minority owner should have a working knowledge of the technical requirements needed to operate in his/her industry. Specifically, in the construction industry and especially among small (one to five person firms) contractors, it is reasonable to expect the disadvantaged or minority owner(s) to be knowledgeable of all aspects of the business. Accordingly, in order to clarify the level of operational involvement which a minority owner must have in a business for it to be considered eligible, the following examples are put forth, but are not intended to be all inclusive:

A. The minority owner should have experience in the industry for which certification is being sought;

B. The minority owner should demonstrate that basic decisions pertaining to the daily operations of the business are independently made. This does not necessarily preclude the disadvantaged or minority owner(s) from seeking paid or unpaid advice and assistance. It does mean that the minority owner currently must possess the knowledge to weigh all advice given and to make an independent determination.

OPERATIONS HELP - - The RTA will attempt to arrange support for certified DBEs in need of advice and/or business practices technical assistance. Efforts will be made through the auspices of the State Office of Minority and Women Business Assistance (SOMWBA) to secure the services of a business consultant who may respond to the needs of the DBE.

Examples of the types of assistance that may be provided includes, but is not limited to, the following topic areas:

a. Office practices and procedures
b. Maintaining records
c. Bidding techniques
d. Estimating techniques
e. Work scheduling
f. Any technical problem
g. Practical ways of getting a job done
h. Bonding
i. Insurance

OWNERSHIP - -

A. The minority owners of the firm shall not be subject to any formal or informal restrictions which limit the customary discretion of the owner (s). There shall be no restrictions through, for example, charter requirements, by-law provisions, partnership agreements, franchise or distributor agreements, or any other agreements that prevent the minority owner(s), without the cooperation or vote of any non-minority, from making a business decision of the firm.

B. This means that the disadvantaged or minority persons, in order to acquire their ownership interests in the firm, have made real and substantial contributions of capital, expertise, or other tangible personal assets derived from independently-owned holdings without benefit of a transfer of assets, gift or inheritance from non-minority persons. Examples of insufficient contributions include a promise to contribute capital, a note payable to the firm or its owners who are not minority persons, or the mere participation as an employee rather than as a manager. If the ownership interest held by a disadvantaged or minority person is subject to formal or informal restrictions, such as options, security interests, agreements, etc., held by a non-minority person, or business entity, the options, security interests, agreements, etc., held by the non-minority person or business entity must not significantly impair the disadvantaged or minority person's ownership interest.

PARTNERSHIP -- An unincorporated association of two or more persons to carry on as co-owners a business for profit. For partnership to be deemed eligible for certification under the DBE Program, the disadvantaged or minority person's interest must be at least 51 percent of the partnership capital.

PERSONAL NET WORTH - - Means the net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include: The individual's ownership interest in an applicant or participating DBE firm; or the individuals's equity in his or her primary place of residence. An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

PRIMARY INDUSTRY CLASSIFICATION - - Means the four digit Standard Industrial Classification (SIC) Code designation which best describes the primary business of a firm. The Sic code designations are described in the Standard Industrial Classification manual. As the North American Industrial Classification System (NAICS) replaces the SIC system, references to SIC codes and the SIC Manual are deemed to refer to the NAICs Manual and applicable codes. The SIC Manual and the NAICS Manual are available through the National Technical Information Service (NTIS) of the U.S. Department of Commerce (Springfield, VA, 22261). NTIS also makes material and information available through its web site (WWW.ntis.gov/naics).

PRIMARY RECIPIENT - - Means a recipient which receives DOT financial assistance and passes some or all of it on to another recipient.

PROGRAM ABUSE -- Any violation of the provisions of the DBE Program.

PROJECT MANAGER -- The RTA employee who is responsible for daily surveillance of RTA projects and maintains any daily reports or construction logs to assure compliance with the specifications of the contract. It is also the Project Manager's responsibility to keep records of the DBE activity at the project or work site and to share this information with the DBE Liaison and Department representative in the performance of DBE compliance renews.

REDUCED CANDIDATES LIST -- A list of businesses established by the RTAs screening or selection committee through the review and evaluation of candidate businesses pursuant to federal contractor selection guidelines, from which technical and price proposals are requested.

REGULAR DEALER -- A firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A Regular Dealer in such bulk items as steel, cement, gravel, stone, and petroleum need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this section.

A Regular Dealer must be engaged in selling the product in question to the public. This is important in distinguishing a Regular Dealer, which has a regular trade with a variety of customers, from a firm which performs supply-like functions on an ad hoc basis or for only one or two contractors with whom it has a special relationship.

A business that simply transfers title of a product from manufacturer to ultimate purchaser (e.g. broker or sales representative who re-invoices a steel product from the steel company to the recipient or contractor) or a firm that puts a product in a container for delivery would not be considered a Regular Dealer. The Prime contractor may compute 60% of the purchase of supplies from regular dealers toward the contract goal. Supplies may not exceed 60% of the entire contract goal. One hundred per cent of supplies can be counted if provided by a disadvantaged or minority manufacturer.

A supplier of bulk goods may qualify as a regular dealer if it either maintains an inventory or owns or operates distribution equipment. With respect to the distribution equipment (e.g. a fleet of trucks), the term "operates" is intended to cover a situation in which the supplier leases the equipment on a regular basis for its entire business. It is not intended to cover a situation in which the firm simply provides drivers for trucks owned or leased by another party, (e.g., a prime contractor) or leases such a party's trucks on an ad hoc basis for a specific job.

SECRETARY -- The Commonwealth of Massachusetts Secretary of Transportation, or his designated representative.

SIZE ELIGIBILITY PROVISIONS AND STANDARDS - - For the purpose of determining size eligibility of a business concern to participate as a DBE for Federally Aided projects the Massachusetts Department of Transportation is incorporating into this plan by reference 13 CFR, Part 121 Subpart A Size Eligibility provisions and standards.

SMALL BUSINESS CONCERN -- For a federally aided project, a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. The criteria shall follow those published and promulgated by the U.S. Small Business Administration. standards for small business size are incorporated in this manual by reference.

SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUAL PURSUANT TO 49 CFR, PART 26.67 (SUBPART D) -- Those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans/African Americans, Hispanic Americans, Native Americans, Asian-Indian Americans, Asian-Pacific Americans, women and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to section 8(a) of the Small Business Act. The RTA shall make a rebuttable presumption that individuals in the groups listed below are socially and economically disadvantaged and may also determine and identify, on a case-by-case basis, those individuals who are not members of the following groups but who are socially and economically disadvantaged:

- African Americans/Black Americans -- Persons having origins in any of the Black racial groups of Africa, and who are regarded as such by the community of which the persons claim to be a part;
- Hispanic Americans -- Persons of Mexican, Puerto Rican, Cuban, Central or South American, Portuguese, or other Spanish culture or origin, regardless of race, and who are regarded as such by the community of which the persons claim to be a part;
- Native Americans -- American Indians, Eskimos, Aluets, or Native Hawaiians, and who are regarded as such by the community of which the persons claim to be a part;
- Asian-Pacific Americans -- Persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, or the Northern Marianas, and who are regarded as such by the community of which the persons claim to be a part; and
- Asian-Indian Americans -- Persons whose origins are from India, Pakistan, or Bangladesh, and who are regarded as such by the community of which the persons claim to be a part.
- Women - Women shall include all women, regardless of race or ethnicity.

SOCIALLY AND ECONOMICALLY DISADVANTAGED STATUS - - For the determination of socially and economically disadvantaged status for certification under Federal guidelines of eligibility, the following process shall be observed, with the understanding that the burden of proof is placed on the applicant.

The social disadvantaged status must be established first. This is accomplished by demonstrating with documentation, discrimination in a number of ways, as discussed below, but should not be limited to:

1. Education

   a. Access to a publicly available educational system or acceptable standards.
   b. Education in a non-discriminatory setting.

2. Work Environment

   a. Access to employment and employment training.
   b. Non-discriminating employment environment and employment training environment.
   c. Access to licenses and registrations necessary to, or supportive of, conducting work.
   d. Access to unions and union programs and activities which are applicable.

3. Living Environment

   a. Access to housing.
   b. Access to social institutions such as transportation, shopping facilities, places of worship and medical care.

Once the social disadvantage is established, economic disadvantaged status must be demonstrated and documented. This shall include but not be limited to:

1 Access to financial resources including credit and financing.

2. Access to bonding.

3. Access to business opportunities and contracting including appropriate business organizations.

Data to be considered may include tax records, financial statements, business or contracting opportunities compared to non-disadvantaged firms in the same line of work (i.e. competitiveness) credit availability and bonding availability.

The above socially and economically disadvantaged criteria are not applicable to those groups under Federal certification criteria which are presumed to be socially and economically disadvantaged. Evidence needs to be evaluated with specific instances of discrimination related to the disadvantaged status of the owner. The evidence must demonstrate that the discrimination impeded or negatively affected the individual's entry and/or advancement in the business world. In all instances, the totality of circumstances should be considered in arriving at a final decision of social disadvantage status. In the separate test of economic disadvantage the determination should reflect that the applicant firm and its owner are in a more difficult economic situation than most firms (including established firms) and owners who are not socially disadvantaged.

Evidence submitted must clearly demonstrate that the economic disadvantage stems from the social disadvantage. The social and economic disadvantage based on a handicap or disability which the individual has personally suffered must be shown to be chronic, longstanding and substantial. This must be done on a stringent case by case review.

Once an individual is determined to be a member of one of the specified disadvantaged classifications, after certain tests for membership are applied, that individual's status as socially and economically disadvantaged is established as a fact until the presumption is effectively rebutted. Because of the presumption, the individual applying for certification cannot be required to prove his/her disadvantaged status unless reasonable evidence to rebut the presumption is otherwise available to the certifying agency.

SOLE PROPRIETORSHIP -- A for profit business owned and operated by a disadvantaged or minority person in his or her individual capacity. For a sole proprietorship to be deemed eligible for certification under the DBE Program, the disadvantaged or minority person must be the sole proprietor.

SUBCONTRACTOR -- One who has contracted with a prime contractor for the performance of all or part of the work or services which the prime contractor has contracted to perform.

SUPPLIER -- A regular dealer, who owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of a contract are placed, kept in stock, and regularly sold to the public in the usual course of business. The supplier must perform a commercially useful function consistent with normal industry practices. To be a Regular Dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A supplier of bulk goods (e.g. steel, cement, gravel, stone, petroleum products) may qualify as a Regular Dealer if it either maintains an inventory or owns or operates distribution equipment. With respect to the distribution equipment (e.g. a fleet of rucks), the term "operates" is intended to cover a situation in which the supplier leases the equipment on a regular basis for its entire business. It is not intended to cover a situation in which the firm simply provides drivers for trucks owned or leased by another party (e.g., a prime contractor) or leases such a party's trucks on an ad hoc basis for a specific job.

TECHNICAL ASSISTANT -- RTA, Agency or SOMWBA employees who are qualified in the construction field or in a field in which a disadvantaged or minority owner(s) is seeking certification, who may assist the DBE Analyst to determine the level of competence in those areas of skill, service or product within which the applicant(s) is seeking DBE Certification, recertification or a work area within which a certified business is performing.

THIRD TIER CONTRACTING -- The process in which a prime contractor subcontracts a portion of an original contract to a subcontractor who in turn subcontracts a portion of a subcontract to a third party. This latter action is termed entering into a third tier contract.

The RTA realizes that third tier contracting is not the usual way for a prime contractor to achieve a DBE goal. However, the Department also realizes that there may be rare occasions when third tier contracting would be acceptable. Two conditions must be met before the RTA may approve a third tier contracting arrangement which may be entered into to meet a DBE goal:

1. The RTA must be satisfied that there is no way except by third tier contracting that a DBE goal can be achieved;

2. The prime contractor must request of the RTA, in writing, prior to the awarding of a contract, that approval be granted for each third tier contract arrangement. The request must contain the specifics as to why a third tier contracting arrangement is being requested.

Any RTA approved third tier contract will be documented in writing, setting forth the parameters of the third tier contract. Third Tier Contracting is to be considered the exception and not the rule. If the third tier results from a DBE subcontracting to a non-DBE third tier contractor, this participation shall not be counted as DBE participation towards goal attainment.

TIME -- In computing any period of time prescribed by the DBE Program or by the Chair/MBEAC, the day on which the act or event begins is not computed, but the last day of the period is computed. Saturdays, Sundays, and state and federal holidays are not computed.

U.S. DOT -- U.S. Department of Transportation.

July 8, 2020

Brockton Area Transit Authority

Federal Transit Administration (FTA)

DBE Goal Setting Methodology

For FFY 2021-FFY2023

Goal Period

Submitted in fulfillment of:

Title 49 Code of Federal Regulations Part 26

Brockton Area Transit Authority
Disadvantaged Business Enterprise (DBE)
Goal Methodology
Federal Fiscal Years 2021-2023
Recipient ID #1370
July 8, 2020

The Brockton Area Transit Authority is submitting its three year Disadvantaged Business Enterprise (DBE) Goal and corresponding goal setting methodology for the three-year Federal Fiscal Year (FFY) goal period 2021-2023 (October 1, 2020 through September 30, 2023), pursuant to Title 49 Code of Federal Regulations (CFR) Part 26 "Participation by Disadvantaged Business Enterprise in U.S. Department of Transportation Programs." The purpose of the DBE goal setting process is to level the playing field so that DBE's can compete fairly for Department of Transportation assisted contracts.

The following is the methodology for determining the FFY2021-2023 DBE Goal:

Brockton Area Transit Authority
2021-23 DBE Methodology Worksheet
Section 26.45: Overall Goal Calculation

Overall Goal

1. The Brockton Area Transit Authority's (BAT) goal for the time period October 1, 2020 through September 30, 2023 is the following: 2.5% of total financial assistance will be spent with DBE firms exclusive of FTA funds used to purchase transit vehicles. BAT estimates that, in meeting the overall goal of 2.5%, BAT will obtain 100% from race-neutral participation and 0% through race-conscious measures.

   For the last three years BAT's median goal achievement was 4.6%. BAT's overall goal was reviewed using the two step process described in 49 CFR 26.45 but the actual goal was set using step one only.

	FFY17	FFY18	FFY19
Goal	6.6%	2.3%	2.3%
Achievement	3.1%	4.6%	8.7%

2. BAT anticipates awarding $9,071,000 in DOT-assisted contracts during FFY2021-FFY2023 through the combined capital and operating programs. With a goal of 2.5%, BAT will expend more than $226,000 with DBE firms during this time period.

Methodology used to Calculate Overall Goal

In order to arrive at the 2021-23 DBE Goal for Brockton Area Transit Authority the following procedures were followed:

1. BAT used the Census Bureau's County Business Pattern (CBP) database that is made available by the U.S. Census to search for firms by state, county and NAICS code. The market area was defined as the State of Massachusetts and surrounding states, based on previous experience in obtaining DBE participation.

   The most recent NAICS codes were considered as potential sources for BAT's federally funded work during FFY2021-2023 and to identify business categories that have been used in determining DBE participation.

   The State Supplier Diversity Office (SDO) directory was reviewed to match as closely as possible the NAICS codes to determine the potential market area participation. BAT is part of the UCP with the Commonwealth of Massachusetts and the Massachusetts Department of Transportation. The Commonwealth' s Supplier Diversity Office (SDO) certifies Disadvantaged Business Enterprises and keeps a directory of DBE's by NAICS code. This is a searchable and downloadable directory which allows for DBE certified businesses to be sorted by NAICS code.

2. The SDO firms were researched to ensure that they were ready, willing and able to compete for work. The Supplier Diversity Database (SDO) was used as the resource for seeking out DBE's.

3. All Massachusetts firms in the SDO were included and assumed as potential bidders.

4. BAT has submitted its five year capital plan that includes FFY2020 through FFY2024. At this time the plan has been fully endorsed. BAT will continue to review it for consistency with the stated DBE goal. If at

any time, the existing plan changes significantly BAT will revisit the DBE goal.

The following is documentation of the method BAT used to calculate its goal.

Step 1: 26.45(c) Determine Base Figure – The base figures were calculated to determine relative availability of DBE's in specific area of expertise using the Supplier Diversity Office (SDO) DBE Directory database and NAICS codes.

After determining the number of DBE firms and the number of all firms in each applicable NAICS, BAT was able to determine a baseline figure for relative availability of DBE firms. The baseline figures were weighted according to the expected amount of contract dollars to be expended in each NAICS code summarized.

This research resulted in the following Step 1 calculation.

Step 1 base figure: Determine Base Figure – Ready, Willing and able DBE's over three years equal 298 or 1.09% of all 27,365 firms ready, willing and able. (Includes DBE's and non-DBE's)

The base figures were weighted according to the expected amount of contract dollars to be expended in each NAICS code summarized. Based on this the relative availability for DOT assisted contracts is as follows:

Brockton Area Transit Authority
2021-2023 DBE Methodology Worksheet

For **Fiscal Year 2021** the Authority expects to award the following contracts:

Step 1 - Determine the weight of each type of work by NAICS Code:

* Enter all contracting and sub-contracting opportunities anticipated for the FTA-assisted contract. Project amounts should be assigned relevant NAICS Code(s).

	NAICS Code	Project	Amount of DOT funds on project:	% of total DOT funds (weight)
1)	236210	Rehab Facilities	$120,000	0.0382
2)	423850	Capital Parts	100,000	0.0318
3)	423850	Support Equipment	80,000	0.0255
4)	524210	Insurance Commercial	90,000	0.0287

5)	423120	Shop Equipment	360,000	0.1146
6)	327331	Pavement Mgmnt	40,000	0.0127
7)	561720	Custodial/Blg Grnds	150,000	0.0478
8)	423120	Material & Supplies	510,000	0.1624
9)	324110	Fuel	950,000	0.3025
10)	541618	Professional Services	500,000	0.1592
11)	238220	HVAC	120,000	0.0382
12)	334220	Radios	120,000	0.0382
	Total FTA Assisted Contract Funds		$3,140,000	1.0000

Step 2 - Determine the relative availability of DBE's by NAICS Code:

* Use DBE Directory, census data and/or a bidders list to enter the number of available DBE firms and the number of available firms.

	NAICS Code	Project	Number of DBE's available to perform work	Number of all firms available (including DBE's)	Relative Availability	
1)	236210	Rehab Facilities	3	92	0.03261	
2)	423850	Capital Parts	3	492	0.00610	
3)	423850	Support Equipment	3	187	0.01604	
4)	524210	Insurance Commercial	7	379	0.01847	
5)	423120	Shop Equipment	1	492	0.00203	
6)	327331	Pavement Mngmnt	0	92	0.00000	
7)	561720	Custodial/blg grnds	32	1,314	0.02435	
8)	423120	Material & Supplies	33	370	0.08919	
9)	324110	Fuel	1	76	0.01316	
10)	541618	Professional Services	15	4,346	0.00345	
11)	238220	HVAC	6	166	0.03614	
12)	334220	Radios	2	71	0.02817	
	Total FTA Assisted Contract Funds		106	8,077	0.26972	Overall available DBE's

Step 3 –
(Weight) x (Availability) = Weighted Base Figure

	NAICS Code	Project	Weight	X	Availability	Weighted Base Figure	
1)	236210	Rehab Facilities		0.0382	0.0326	0.00125	
2)	423850	Capital Parts		0.0318	0.0061	0.00019	
3)	423850	Support Equipment		0.0255	0.0160	0.00041	
4)	524210	Insurance Commercial		0.0287	0.0185	0.00053	
5)	423120	Shop Equipment		0.1146	0.0020	0.00023	
6)	327331	Pavement Mngmnt		0.0127	0.0000	0.00000	
7)	561720	Custodial/blg grnds		0.0478	0.0244	0.00116	
8)	423120	Material & Supplies		0.1624	0.0892	0.01449	
9)	324110	Fuel		0.3025	0.0132	0.00398	
10)	541618	Professional Services		0.1592	0.0035	0.00055	
11)	238220	HVAC		0.0382	0.0361	0.00138	
12)	334220	Radios		0.0382	0.0282	0.00108	
				1.0000	0.2697	0.02525	Total
						2.53%	Expressed as %

For **Fiscal Year 2022** the Authority expects to award the following contracts:

Step 1 - Determine the weight of each type of work by NAICS Code:

* Enter all contracting and sub-contracting opportunities anticipated for the FTA-assisted contract. Project amounts should be assigned relevant NAICS Code(s).

	NAICS Code	Project	Amount of DOT funds on project:	% of total DOT funds (weight)
1)	238160	Roofing	$320,000	0.1019
2)	423850	Support Equipment	80,000	0.0255
3)	423110	Support Vehicle	36,000	0.0115
4)	423850	Capital Parts	100,000	0.0318
5)	524210	Insurance Commercial	90,000	0.0287
6)	337127	Shelters	64,000	0.0204
7)	561720	Custodial/blg grnds	200,000	0.0637
8)	541618	Consulting/Professional	500,000	0.1592
9)	423120	Materials & Supplies	600,000	0.1911
10)	324110	Fuel	950,000	0.3025
11)	236210	ITC Parking	200,000	0.0637
		Total FTA Assisted Contract Funds	$3,140,000	1.0000

Step 2 - Determine the relative availability of DBE's by NAICS Code:

*Use DBE Directory, census data and/or a bidders list to enter the number of available DBE firms and the number of available firms.

	NAICS Code	Project	Number of DBE's available to perform work	Number of all firms available (including DBE's)	Relative Availability
1)	238160	Roofing	1	2431	0.00041
2)	423850	Support Equipment	3	187	0.01604

3)	423110	Support Vehicle	1	370	0.00270
4)	423850	Capital Parts	3	492	0.00610
5)	524210	Insurance Commercial	7	379	0.01847
6)	337127	Shelters	0	5	0.00000
7)	561720	Custodial/blg grnds	32	1,314	0.02435
8)	541618	Consulting/Professional	15	4,346	0.00345
9)	423120	Materials & Supplies	33	370	0.08919
10)	324110	Fuel	1	76	0.01316
11)	236210	ITC Parking	1	1784	0.00056
	Total FTA Assisted Contract Funds		97	11,754	0.17444 Overall availability of DBE's

Step 3 – (Weight) X (Availability) = Weighted Base Figure

	NAICS Code	Project	Weight	X	Availability	Weighted Base Figure
1)	238160	Roofing		0.1019	0.00041	0.00004
2)	423850	Support Equipment		0.0255	0.01604	0.00041
3)	423110	Support Vehicle		0.0115	0.00270	0.00003
4)	423850	Capital Parts		0.0318	0.00610	0.00019
5)	524210	Insurance Commercial		0.0287	0.01847	0.00053
6)	337127	Shelters		0.0204	0.00000	0.00000
7)	561720	Custodial/blg grnds		0.0637	0.02435	0.00155
8)	541618	Consulting/Professional		0.1592	0.00345	0.00055
9)	423120	Materials & Supplies		0.1911	0.08919	0.01704
10)	324110	Fuel		0.3025	0.01316	0.00398
11)	236210	ITC Parking		0.0637	0.00056	0.00004
				1.0000	0.1744 Rounded weighted	0.02437 2.44%

For **Fiscal Year 2023** the Authority expects to award the following contracts:

Step 1 - Determine the weight of each type of work by NAICS Code:

* Enter all contracting and sub-contracting opportunities anticipated for the FTA-assisted contract. Project amounts should be assigned relevant NAICS Code(s).

	NAICS Code	Project	Amount of DOT funds on project:	% of total DOT funds (weight)
1)	423850	Capital Parts	$100,000	0.0358
2)	423850	Support Equipment	80,000	0.0287
3)	423110	Support Vehicle	36,000	0.0129
4)	524210	Commercial Insurance	100,000	0.0358
5)	561720	Custodial Bldg/Gnnds	300,000	0.1075
6)	54118	Consulting/Profess	425,000	0.1523
7)	423120	Material & Supplies	800,000	0.2866
8)	324110	Fuel	950,000	0.3404
	Total FTA Assisted Contract Funds		$2,791,000	1.0000

Step 2 - Determine the relative availability of DBE's by NAICS Code:

* Use DBE Directory, census data and/or a bidders list to enter the number of available DBE firms and the number of available firms.

	NAICS Code	Project	Number of DBE's available to perform work	Number of all firms available (including DBE's)	Relative Availability
1)	423850	Capital Parts	3	492	0.00610
2)	423850	Support Equipment	3	187	0.01604
3)	423110	Support Vehicle	1	370	0.00270
4)	524210	Commercial Insurance	7	379	0.01847
5)	561720	Custodial Bldg/Gnnds	32	1,314	0.02435
6)	54118	Consulting/Profess	15	4,346	0.00345
7)	423120	Material & Supplies	33	370	0.08919
8)	324110	Fuel	1	76	0.01316
	Total FTA Assisted Contract Funds		95	7,534	0.17346
					Overall available DBE's

- Step 3 -(Weight) X (Availability) = Weighted Base Figure

	NAICS Code	Project	Weight	X	Availability	Weighted Base Figure	
1)	423850	Capital Parts	0.0358		0.00610	0.00022	
2)	423850	Support Equipment	0.0287		0.01604	0.00046	
3)	423110	Support Vehicle	0.0129		0.00270	0.00003	
4)	524210	Commercial Insurance	0.0358		0.01847	0.00066	
5)	561720	Custodial Bldg/Gnnds	0.1075		0.02435	0.00262	
6)	54118	Consulting/Profess	0.1523		0.00345	0.00053	
7)	423120	Material & Supplies	0.2866		0.08919	0.02556	
8)	324110	Fuel	0.3404		0.01316	0.00448	
			1.0000		0.17346	0.03456	Total
						3.46%	Expressed as

Median of 2021-2023

2021	2.5%
2022	2.4%
2023	3.5%
Median	**2.5%**

Step 2

Adjustments to the Step 1 base figure

The calculation developed for a step adjustment is as follows:

Past Participation Values:	FFY17	3.10%	FFY18	4.60%	FFY19	8.7%
Median Weighted Step 1 Goal		2.5		2.5		2.5
		5.6/2 =		7.1/2 =		11./2=
Step 2 Adjustment		2.8%		3.6 %		5.6%

Median Value = 3.6%

The Authority has chosen not to include an adjustment to the Base Figure in its calculation at this time. BAT reviewed the Commonwealth's DCAMM 2017 Disparity Study that was conducted as a requirement under federal law for public entities to evaluate their existing minority and women business participation programs to determine whether the public entity has a basis for implementing or adjusting race- and gender- conscious contracting policies. It was determined that the study, although very informative, was not relevant to BAT at this time.

The Massachusetts Department of Transportation has undertaken a diversity study that is not complete as of yet. The study will examine the extent to which disparities exist in the utilization of qualified minority and women-owned businesses. This study is being conducted by NERA Economic Consulting and is currently taking questions and comments. When that study is complete BAT will review it and take into consideration any recommendations that may apply to BAT when preparing future goals. Until then, BAT and its fixed route and paratransit operators will continue to reach out to DBE's as part of its procurement process. Using this method, the median goal attainment for the past three years has been 2.3% higher than the 2.3% DBE goal that had been set.

In FY2021-FY2023 there are no scheduled vehicle overhauls, a procurement that contributed heavily to BAT exceeding its prior year goals. BAT will continue to monitor its DBE goal and revise it should new contracting opportunities arise. BAT will also continue to update its vendor list with ready, willing and able firms.

BAT has a DBE liaison committed to making a concerted effort to seek out and provide procurement opportunities to certified DBE's during the next three years. In the past the liaison has attended several workshops, tradeshows, and business forums as part of the DBE outreach. In addition, the liaison conducted a site visit and followed up with telephone calls as part of BATs outreach. The DBE Liaison will continue to use the SDO database as a resource for reaching out to potential DBE's for contracting opportunities. BAT will be holding a public meeting in July, 2020 and will continue to hold at a minimum one public meeting each year during the duration of this goal to present the goal and any contracting opportunities to DBE's as well as the community and business based organizations, and constituents. BAT anticipates meeting its goal of 2.5% each year of this three year goal.

Race Neutral/Race Conscious Split

The Authority has determined that race conscious goals are not required at this time as it is projected that the entire goal will be met through race-neutral means. BAT has met or exceeded its goal in the past three years by using 100% race neutral measures.

BAT intends to meet the maximum feasible portion of its overall goal by using race-neutral means BAT's Request for Proposals/Quotations may not contain contract specific DBE goals.

Annual DBE Goal = 2.5%	Projected Contract Goals
Race Neutral Means	2.5%
Race Conscious Means	0%

Goal Advertisement and Public Participation Process

In accordance with goal-setting and public participation regulatory requirements of Title 49 CFR Part 26 (49 CFR §26.45), BAT will conduct activities to facilitate public participation in the overall DBE goal-setting process:

1. Publish the proposed goal and methodology on BAT's website accessible at www.ridebat.com.
2. Distribute, for review and public comment, the proposed overall DBE goal and methodology to statewide and local, ethnic/minority and chambers of commerce, as well as other community and business based organizations upon request.
3. Hold a minimum of one community meeting to provide an opportunity for community and business based organizations, their constituents, and BAT bidders/vendors/contractors to provide comment and feedback regarding the proposed DBE goal.
4. Advertise the proposed goal in a Public Notice format, in at least one of the following types of periodicals: 1) general circulation; 2) trade/industry; and 3) minority focus. The public notice will notify the public of the 45 day public comment period and how to submit comments/ and or questions to BAT regarding its proposed goal.

After the community meeting and 45-day public participation period, BAT will consider all input received from the public, and determine if a further adjustment to the overall goal should be made.

OMB APPROVAL NO:
2105-0510
Expiration Date: 10/31/2021

Appendix F

UNIFORM CERTIFICATION APPLICATION

DISADVANTAGED BUSINESS ENTERPRISE (DBE) / AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) 49 C.F.R. Parts 23 and 26

Roadmap for Applicants

1. Should I apply?

You may be eligible to participate in the DBE/ACDBE program if:

- The firm is a for-profit business that performs or seeks to perform transportation related work (or a concession activity) for a recipient of Federal Transit Administration, Federal Highway Administration, or Federal Aviation Administration funds.
- The firm is at least 51% owned by a socially and economically disadvantaged individual(s) who also controls it.
- The firm's disadvantaged owners are U.S. citizens or lawfully admitted permanent residents of the U.S.
- The firm meets the Small Business Administration's size standard and does not exceed $23.98 million in gross annual receipts for DBE ($56.42 million for ACDBEs). (Other size standards apply for ACDBE that are banks/financial institutions, car rental companies, pay telephone firms, and automobile dealers.)

2. How do I apply?

First time applicants for DBE certification must complete and submit this certification application and related material to the certifying agency in your home state and participate in an on-site interview conducted by that agency. The attached document checklist can help you locate the items you need to submit to the agency with your completed application. If you fail to submit the required documents, your application may be delayed and/or denied. Firms already certified as a DBE do not have to complete this form, but may be asked by certifying agencies outside of your home state to provide a copy of your initial application form, supporting documents, and any other information you submitted to your home state to obtain certification or to any other state related to your certification.

3. Where can I send my application? [INSERT UCP PARTICIPATING MEMBER CONTACT INFORMATION]

4. Who will contact me about my application and what are the eligibility standards? A transportation agency in your state that performs certification functions will contact you. The agency is a member of a statewide Unified Certification Program (UCP), which is required by the U.S. Department of Transportation. The UCP is a one-stop certification program that eliminates the need for your firm to obtain certification from multiple certifying agencies within your state. The UCP is responsible for certifying firms and maintaining a database of certified DBEs and ACDBEs, pursuant to the eligibility standards found in 49 C.F.R. Parts 23 and 26.

5. Where can I find more information?

U.S. DOT—https://www.transportation.gov/civil-rights (This site provides useful links to the rules and regulations governing the DBE/ACDBE program, questions and answers, and other pertinent information)

SBA—Small Business Size Standards matched to the North American Industry Classification System (NAICS): http://www.census.gov/eos/www/naics/ and http://www.sba.gov/content/table-small-business-size-standards.

In collecting the information requested by this form, the Department of Transportation (Department) complies with the provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a). The Privacy Act provides comprehensive protections for your personal information. This includes how information is collected, used, disclosed, stored, and discarded. Your information will not be disclosed to third parties without your consent. The information collected will be used solely to determine your firm's eligibility to participate in the Department's Disadvantaged Business Enterprise Program as defined in 49 C.F.R. §26.5 and the Airport Concession Disadvantaged Business Enterprise Program as defined in 49 C.F.R. §23.3. You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).

Under 49 C.F.R. §26.107, dated February 2, 1999 and January 28, 2011, if at any time, the Department or a recipient has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, the Department may initiate suspension or debarment proceedings against the person or firm under 2 C.F.R. Parts 180 and 1200, No procurement Suspension and Department, take enforcement action under 49 C.F.R. Part 31, Program Fraud and Civil Remedies, and/or refer the matter to the Department of Justice for criminal prosecution under 18 U.S.C. 1001, which prohibits false statements in Federal programs.

INSTRUCTIONS FOR COMPLETING THE DISADVANTAGED BUSINESS ENTERPRISE (DBE) AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) UNIFORM CERTIFICATION APPLICATION

NOTE: All participating firms must be for-profit enterprises. If your firm is not for profit, then you do NOT qualify for the DBE/ACDBE program and should not complete this application. If you require additional space for any question in this application, please attach additional sheets or copies as needed, taking care to indicate on each attached sheet/copy the section and number of this application to which it refers.

Section 1: CERTIFICATION INFORMATION

A. Basic Contact Information

(1) Enter the contact name and title of the person completing this application and the person who will serve as your firm's contact for this application.
(2) Enter the legal name of your firm, as indicated in your firm's Articles of Incorporation or charter.
(3) Enter the primary phone number of your firm.
(4) Enter a secondary phone number, if any.
(5) Enter your firm's fax number, if any.
(6) Enter the contact person's email address.
(7) Enter your firm's website addresses, if any.
(8) Enter the street address of the firm where its offices are physically located (not a P.O. Box).
(9) Enter the mailing address of your firm, if it is different from your firm's street address.

B. Prior/Other Certifications and Applications

(10) Check the appropriate box indicating whether your firm is currently certified in the DBE/ACDBE programs, and provide the name of the certifying agency that certified your firm. List the dates of any site visits conducted by your home state and any other states or UCP members. Also provide the names of state/UCP members that conducted the review.
(11) Indicate whether your firm or any firms owned by the persons listed has ever been denied certification as a DBE/ACDBE, 8(a), or Small Disadvantaged Business (SDB) firm, or state and local MBE/WBE firm. Indicate if the firm has ever been decertified from one of these programs. Indicate if the application was withdrawn or whether the firm was debarred, suspended, or otherwise had its bidding privileges denied or restricted by any state or local agency, or Federal entity. If your answer is yes, identify the name of the agency, and explain fully the nature of the action in the space provided. Indicate if you have ever appealed this decision to the Department and if so, attach a copy of USDOT's final agency decision(s).

Section 2: GENERAL INFORMATION

A. Business profile:

(1) Give a concise description of the firm's primary activities, the product(s) or services the company provides, or type of construction. If your company offers more than one product/service, list primary product or service first (attach additional sheets if necessary). This description may be used in our UCP online directory if you are certified as a DBE.
(2) If you know the appropriate NAICS Code for the line(s) of work you identified in your business profile, enter the codes in the space provided.
(3) State the date on which your firm was established as stated in your firm's Articles of Incorporation or charter.
(4) State the date each person became a firm owner.
(5) Check the appropriate box describing the manner in which you and each other owner acquired ownership of your firm. If you checked "Other," explain in the space provided.
(6) Check the appropriate box that indicates whether your firm is "for profit." **If you checked "No," then you do NOT qualify for the DBE/ACDBE program** and should not complete this application. All participating firms must be for-profit enterprises. Provide the Federal Tax ID number as stated on your firm's Federal tax return.
(7) Check the appropriate box that describes the type of legal business structure of your firm, as indicated in your firm's Articles of Incorporation or similar document. If you checked "Other," briefly explain in the space provided.
(8) Indicate in the spaces provided how many employees your firm has, specifying the number of employees who work on a full-time, part-time, and seasonal basis. Attach a list of employees, their job titles, and dates of employment, to your application.
(9) Specify the firm's gross receipts for each of the past three years, as stated in your firm's filed Federal tax returns. You must submit complete copies of the firm's Federal tax returns for each year. If there are any affiliates or subsidiaries of the applicant firm or owners, you must provide these firms' gross receipts and submit complete copies of these firm(s) Federal tax returns. Affiliation is defined in 49 C.F.R. §26.5 and 13 C.F.R. Part 121.

B. Relationships and Dealings with Other Businesses

(1) Check the appropriate box that indicates whether your firm is co-located at any of its business locations, or whether your firm shares a telephone number(s), a post office box, any office space, a yard, warehouse, other facilities, any equipment, financing, or any office staff and/or employees with any other business, organization or entity of any kind. If you answered "Yes," then specify the name of the other firm(s) and fully explain the nature of your relationship with these other businesses by identifying the business or person with whom you have any formal, informal, written, or oral

agreement. Provide an explanation of any items shared with other firms in the space provided.

(2) Check the appropriate box indicating whether any other firm currently has or had an ownership interest in your firm at present or at any time in the past. If you checked yes, please explain.

(3) Check the appropriate box that indicates whether at present or at any time in the past your firm:

(a) ever existed under different ownership, a different type of ownership, or a different name;

(b) existed as a subsidiary of any other firm;

(c) existed as a partnership in which one or more of the partners are/were other firms;

(d) owned any percentage of any other firm; and

(e) had any subsidiaries of its own.

(f) served as a subcontractor with another firm constituting more than 25% of your firm's receipts.

If you answered "Yes" to any of the questions in (3)(a-f), you may be asked to explain the arrangement in detail.

Section 3: MAJORITY OWNER INFORMATION

Identify all individuals or holding companies with any ownership interest in your firm, providing the information requested below (if your firm has more than one owner, provide completed copies of this section for each owner):

A. Identify the majority owner of the firm holding 51% or more ownership interest

(1) Enter the full name of the owner.

(2) Enter his/her title or position within your firm.

(3) Give his/her home phone number.

(4) Enter his/her home (street) address.

(5) Indicate this owner's gender.

(6) Identify the owner's ethnic group membership. If you checked "Other," specify this owner's ethnic group/identity not otherwise listed.

(7) Check the appropriate box to indicate whether this owner is a U.S. citizen or a lawfully admitted permanent resident. If this owner is neither a U.S. citizen nor a lawfully admitted permanent resident of the U.S., then this owner is NOT eligible for certification as a DBE owner.

(8) Enter the number of years during which this owner has been an owner of your firm.

(9) Indicate the percentage of the total ownership this person holds and the date acquired, including (if appropriate), the class of stock owned.

(10) Indicate the dollar value of this owner's initial investment to acquire an ownership interest in your firm, broken down by cash, real estate, equipment, and/or other investment. Describe how you acquired your business and attach documentation substantiating this investment.

B. Additional Owner Information

(1) Describe the familial relationship of this owner to each other owner of your firm and employees.

(2) Indicate whether this owner performs a management or supervisory function for any other business. If you checked "Yes," state the name of the other business and this owner's function/title held in that business.

(3) (a) Check the appropriate box that indicates whether this owner owns or works for any other firm(s) that has <u>any</u> relationship with your firm. If you checked "Yes," identify the name of the other business, the nature of the business relationship, and the owner's function at the firm.

(b) If the owner works for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week, please identify this activity.

(4) (a) Provide the personal net worth of the owner applying for certification in the space provided. Complete and attach the accompanying "Personal Net Worth Statement for DBE/ACDBE Program Eligibility" with your application. Note, complete this section and accompanying statement only for each owner applying for DBE qualification (i.e., for each owner claiming to be socially and economically disadvantaged).

(b) Check the appropriate box that indicates whether any trust has been created for the benefit of the disadvantaged owner(s). If you answered "Yes," you may be asked to provide a copy of the trust instrument.

(5) Check the appropriate to indicate whether any of your immediate family members, managers, or employees, own, manage, or are associated with another company. Immediate family member is defined in 49 C.F.R. §26.5. If you answered "Yes," provide the name of each person, your relationship to them, the name of the company, the type of business, and whether they own or manage the company.

Section 4: CONTROL

A. Identify the firm's Officers and Board of Directors

(1) In the space provided, state the name, title, date of appointment, ethnicity, and gender of each officer.

(2) In the space provided, state the name, title, date of appointment, ethnicity, and gender of each individual serving on your firm's Board of Directors.

(3) Check the appropriate box to indicate whether any of your firm's officers and/or directors listed above performs a management or supervisory function for any other business. If you answered "Yes," identify each person by name, his/her title, the name of the other business in which s/he is involved, and his/her function performed in that other business.

(4) Check the appropriate box that indicates whether any of your firm's officers and/or directors listed above own or work for any other firm(s) that has a relationship with your firm. (e.g., ownership interest, shared office space, financial investments, equipment leases, personnel sharing, etc.) If you answered "Yes," identify the name of the firm, the individual's name, and the nature of his/her business relationship with that other firm.

B. Duties of Owners, Officers, Directors, Managers and Key Personnel

(1), (2) Specify the roles of the majority and minority owners, directors, officers, and managers, and key personnel who are responsible for the functions listed for the firm. Submit résumés for each owner and non-owner identified below. State the name of the individual, title, race

and gender and percentage ownership if any. Circle the frequency of each person's involvement as follows: "always, frequently, seldom, or never" in each area.

Indicate whether any of the persons listed in this section perform a management or supervisory function for any other business. Identify the person, business, and their title/function. Identify if any of the persons listed above own or work for any other firm(s) that has a relationship with this firm (e.g. ownership interest, shared office space, financial investment, equipment, leases, personnel sharing, etc.) If you answered "Yes," describe the nature of his/her business relationship with that other firm.

C. Inventory: Indicate firm inventory in these categories:

(1) **Equipment and Vehicles**
State the make and model, and current dollar value of each piece of equipment and motor vehicle held and/or used by your firm. Indicate whether each piece is either owned or leased by your firm or owner, whether it is used as collateral, and where this item is stored.

(2) **Office Space**
State the street address of each office space held and/or used by your firm. Indicate whether your firm or owner owns or leases the office space and the current dollar value of that property or its lease.

(3) **Storage Space**
State the street address of each storage space held and/or used by your firm. Indicate whether your firm or owner owns or leases the storage space and the current dollar value of that property or its lease. Provide a signed lease agreement for each property.

D. Does your firm rely on any other firm for management functions or employee payroll?

Check the appropriate box that indicates whether your firm relies on any other firm for management functions or for employee payroll. If you answered "Yes," you may be asked to explain the nature of that reliance and the extent to which the other firm carries out such functions.

E. Financial / Banking Information

State the name, City and State of your firm's bank. Identify the persons able to sign checks on this account. Provide bank authorization and signature cards.

Bonding Information. State your firm's bonding limits both aggregate and project limits.

F. Sources, amounts, and purposes of money loaned to your firm, including the names of persons or firms guaranteeing the loan.

State the name and address of each source, the name of person securing the loan, original dollar amount and the current balance of each loan, and the purpose for which each loan was made to your firm. Provide copies of signed loan agreements and security agreements

G. Contributions or transfers of assets to/from your firm and to/from any of its owners or another individual over the past two years:

Indicate in the spaces provided, the type of contribution or asset that was transferred, its current dollar value, the person or firm from whom it was transferred, the person or firm to whom it was transferred, the relationship between the two persons and/or firms, and the date of the transfer.

H. Current licenses/permits held by any owner or employee of your firm.

List the name of each person in your firm who holds a professional license or permit, the type of permit or license, the expiration date of the permit or license, and issuing State of the license or permit. Attach copies of licenses, license renewal forms, permits, and haul authority forms.

I. Largest contracts completed by your firm in the past three years, if any.

List the name of each owner or contractor for each contract, the name and location of the projects under each contract, the type of work performed on each contract, and the dollar value of each contract.

J. Largest active jobs on which your firm is currently working.
For each active job listed, state the name of the prime contractor and the project number, the location, the type of work performed, the project start date, the anticipated completion date, and the dollar value of the contract.

Section 5: AIRPORT CONCESSION (ACDBE) APPLICANTS

Complete the entries in this section if you are applying for ACDBE certification. Indicate in Section A if you operate a concession at the airport, and/or supply a good or service to an airport concessionaire. Indicate in Section B whether the applicant firm owns or operates any off-airport locations, providing the type of business, lease information, address/location, and annual gross receipts generated. Provide similar information in section C for any airport concession locations the firm currently owns or operates. If the applicant firm has any affiliates, provide the requested information in Section D. Indicate whether the ACDBE firm is participating in any joint ventures, and if so, include the original and any amended joint venture agreements.

AFFIDAVIT & SIGNATURE

The Affidavit of Certification must accompany your application. Carefully read the attached affidavit in its entirety. Fill in the required information for each blank space, and sign and date the affidavit in the presence of a Notary Public, who must then notarize the form.

Section 1: CERTIFICATION INFORMATION

A. Basic Contact Information I am applying for certification as ☐DBE ☐ACDBE

(1) Contact person and Title: _____

(2) Legal name of firm: _____

(3) Phone #: (___) _____ - _____ **(4) Other Phone #:** (___) _____ - _____ **(5) Fax #:** (___) _____ - _____

(6) E-mail: _____ **(7) Firm Websites:** _____

(8) Street address of firm *(No P.O. Box)*: _____ **City:** _____ **County/Parish:** _____ **State:** _____ **Zip:** _____ - ____

(9) Mailing address of firm *(if different)*: _____ **City:** _____ **County/Parish:** _____ **State:** _____ **Zip:** _____ - ____

B. Prior/Other Certifications and Applications

(10) Is your firm currently certified for any of the following U.S. DOT programs?
❑ DBE ❑ ACDBE Names of certifying agencies: _____

⊗ If you are certified in your home state as a DBE/ACDBE, you do not have to complete this application for other states. Ask your state UCP about the interstate certification process.

List the dates of any site visits conducted by your home state and any other states or UCP members:

Date ___/___/___ State/UCP Member: _____ Date ___/___/___ State/UCP Member: _____

(11) Indicate whether the firm or any persons listed in this application have ever been:

(a) Denied certification or decertified as a DBE, ACDBE, 8(a), SDB, MBE/WBE firm? ❑ Yes ❑No
(b) Withdrawn an application for these programs, or debarred or suspended or otherwise had bidding privileges denied or restricted by any state or local agency, or Federal entity? ❑ Yes ❑ No

If yes, explain the nature of the action. *(If you appealed the decision to DOT or another agency, attach a copy of the decision,*
_____
_____

Section 2: GENERAL INFORMATION

A. Business Profile: (1) Give a concise description of the firm's primary activities and the product(s) or service(s) it provides. If your company offers more than one product/service, list the primary product or service first. Please use additional paper if necessary. This description may be used in our database and the UCP online directory if you are certified as a DBE or ACDBE.

_____
_____
_____
_____

(2) Applicable NAICS Codes for this line of work include: _____ _____ _____ _____ _____ _____

(3) This firm was established on ___/___/___ **(4) I/We have owned this firm since:** ___/___/___

(5) **Method of acquisition** *(Check all that apply)*:

❑ Started new business ❑ Bought existing business❑ Inherited business ❑ Gifted
❑ Merger or consolidation ❑ Other *(explain)* _____

(6) **Is your firm "for profit"?** ❑Yes
Federal Tax ID#

_____

No→ ⊗ **STOP!** If your firm is NOT for-profit, then you do NOT qualify for this program and should not fill out this application.

(7) **Type of Legal Business Structure:** *(check all that apply)*:

❑ Sole Proprietorship
❑ Limited Liability Partnership
❑ Partnership❑Corporation
❑ Limited Liability Company❑ Other, Describe _____

(8) **Number of employees**: Full-time _____Part-time _____Seasonal _____Total _____
(Provide a list of employees, their job titles, and dates of employment, to your application).

(9) **Specify the firm's gross receipts for the last 3 years.** *(Submit complete copies of the firm's Federal tax returns for each year. If there are affiliates or subsidiaries of the applicant firm or owners, you must submit complete copies of these firms' Federal tax returns).*

Year _____ Gross Receipts of Applicant Firm $ _____ Gross Receipts of Affiliate Firms $_____
Year _____ Gross Receipts of Applicant Firm $_____Gross Receipts of Affiliate Firms $_____
Year _____ Gross Receipts of Applicant Firm $ _____ Gross Receipts of Affiliate Firms $_____

B. Relationships and Dealings with Other Businesses

(1) Is your firm co-located at any of its business locations, or does it share a telephone number, P.O. Box, office or storage space, yard, warehouse, facilities, equipment, inventory, financing, office staff, and/or employees with any other business, organization, or entity? ❑ Yes ❑ No

If Yes, explain the nature of your relationship with these other businesses by identifying the business or person with whom you have any formal, informal, written, or oral agreement. Also detail the items shared

_____
_____
_____
_____
_____
_____
_____
_____
_____

(2) Has any other firm had an ownership interest in your firm at present or at any time in the past?
❑ Yes ❑ No If Yes, explain_____

(3) At present, or at any time in the past, has your firm:

(a) Ever existed under different ownership, a different type of ownership, or a different name? ⌟ Yes ⌟ No
(b) Existed as a subsidiary of any other firm? ⌟ Yes ⌟ No
(c) Existed as a partnership in which one or more of the partners are/were other firms? ⌟ Yes ⌟ No
(d) Owned any percentage of any other firm? ⌟ Yes ⌟ No
(e) Had any subsidiaries? ⌟ Yes ⌟ No
(f) Served as a subcontractor with another firm constituting more than 25% of your firm's receipts? ⌟ Yes ⌟ No

(If you answered "Yes" to any of the questions in (2) and/or (3)(a)-(f), you may be asked to provide further details and explain whether the arrangement continues).

Section 3: MAJORITY OWNER INFORMATION

A. Identify the majority owner of the firm holding 51% or more ownership interest.

(1) Full Name: _____ **(2) Title:** _____ **(3) Home Phone #:** ( ) _____ - _____

(4) Home Address *(Street and Number)*: _____ **City:** _____ **State:** _____ **Zip:** _____ - _____

(5) Gender: ❑ Male ❑ Female

(6) Ethnic group membership *(Check all that apply)*:

❑ Black
❑ Hispanic
❑ Asian Pacific
❑ Native American
❑ Subcontinent Asian
❑ Other *(specify)* _____

(7) U.S. Citizenship: ❑ U.S. Citizen
❑ Lawfully Admitted Permanent Resident

(8) Number of years as owner: _____
(9) Percentage owned: _____ %
Class of stock owned: _____ Date acquired _____

(10) Initial investment to acquire ownership interest in firm:

Type	Dollar Value
Cash	$ _____
Real Estate	$ _____
Equipment	$ _____
Other	$ _____

Describe how you acquired your business:
❑ Started business myself.
❑ It was a gift from: _____
❑ I bought it from: _____
❑ I inherited it from: _____
❑ Other _____
(Attach documentation substantiating your investment)

B. Additional Owner Information

(1) Describe familial relationship to other owners and employees:
_____
_____
_____

(2) Does this owner perform a management or supervisory function for any other business? ❑ Yes ❑ No
If Yes, identify: Name of Business: _____ Function/Title: _____

(3)(a) Does this owner own or work for any other firm(s) that has a relationship with this firm? *(e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)* ❑ Yes ❑ No
Identify the name of the business, and the nature of the relationship, and the owner's function at the firm:
_____
_____

(b) Does this owner work for any other firm, non-profit organization, or engage in any other activity more than 10 hours per week? If yes, identify this activity: _____

(4)(a) What is the personal net worth of this disadvantaged owner applying for certification? $_____

(b)Has any trust been created for the benefit of this disadvantaged owner(s)? ❑ Yes ❑ No
(If Yes, you may be asked to provide a copy of the trust instrument).

(5) Do any of your immediate family members, managers, or employees own, manage, or are associated with another company? ❑ Yes ❑ No If Yes, provide their name, relationship, company, type of business, and indicate whether they own or manage the company: *(Please attach extra sheets, if needed)*: _____
_____

Section 3: OWNER INFORMATION, Cont'd.

A. Identify all individuals, firms, or holding companies that hold LESS THAN 51% ownership interest in the firm (*Attach separate sheets for each additional owner)*

(1) Full Name: _____

(2) Title: _____

(3) Home Phone #: ( ) _____ - _____

(4) Home Address (*Street and Number*): _____

City: _____

State: _____

Zip: _____ - _____

(5) Gender: ❑ Male ❑ Female

(6) Ethnic group membership *(Check all that apply)*

❑ Black
❑ Hispanic
❑ Asian Pacific
❑ Native American
❑ Subcontinent Asian
❑ Other (*specify*) _____

(7) U.S. Citizenship:
❑ U.S. Citizen
❑ Lawfully Admitted Permanent Resident

(8) Number of years as owner: _____
(9) Percentage owned: _____ %
Class of stock owned: _____ Date acquired _____

(10) Initial investment to acquire ownership interest in firm:

Type	Dollar Value
Cash	$ _____
Real Estate	$ _____
Equipment	$ _____
Other	$ _____

Describe how you acquired your business:
❑ Started business myself.
❑ It was a gift from: _____
❑ I bought it from: _____
❑ I inherited it from: _____
❑ Other _____
(Attach documentation substantiating your investment)

B. Additional Owner Information

(1) Describe familial relationship to other owners and employees:
_____
_____
_____

(2) Does this owner perform a management or supervisory function for any other business? ❑ Yes ❑ No
If Yes, identify: Name of Business: _____ Function/Title: _____

(3)(a) Does this owner own or work for any other firm(s) that has a relationship with this firm? (*e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.*) ❑ Yes ❑ No
Identify the name of the business, and the nature of the relationship, and the owner's function at the firm:
_____

(b) Does this owner work for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week? If yes, identify this activity: _____

(4)(a) What is the personal net worth of this disadvantaged owner applying for certification? $_____

(b) Has any trust been created for the benefit of this disadvantaged owner(s)? ❑ Yes ❑ No
(If Yes, you may be asked to provide a copy of the trust instrument).

(5) Do any of your immediate family members, managers, or employees own, manage, or are associated with another company? ❑ Yes ❑ No If Yes, provide their name, relationship, company, type of business, and indicate whether they own or manage: *(Please attach extra sheets, if needed)*: _____
_____

Section 4: CONTROL

A. Identify your firm's Officers and Board of Directors *(If additional space is required, attach a separate sheet)*:

	Name	Title	Date Appointed	Ethnicity	Gender
(1) Officers of the Company	(a)				
	(b)				
	(c)				
	(d)				
(2) Board of Directors	(a)				
	(b)				
	(c)				
	(d)				

(3) Do any of the persons listed above perform a management or supervisory function for any other business?
❑ Yes ❑ No If Yes, identify for each:

Person: _____ Title: _____
Business: _____ Function: _____

Person: _____ Title: _____
Business: _____ Function: _____

(4) Do any of the persons listed in section A above own or work for any other firm(s) that has a relationship with this firm? *(e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)*
❑ Yes ❑ No
If Yes, identify for each:

Firm Name: _____ Person: _____
Nature of Business Relationship: _____

B. Duties of Owners, Officers, Directors, Managers, and Key Personnel
1. Complete for all Owners who are responsible for the following functions of the firm *(Attach separate sheets as needed).*

A= Always F = Frequently / **S = Seldom N = Never**	Majority Owner (51% or more) Name: _____ Title: _____ Percent Owned:				Minority Owner (49% or less) Name: _____ Title: _____ Percent Owned:			
Sets policy for company direction/scope of operations	A ❑	F ❑	S ❑	N ❑	A ❑	F ❑	S ❑	N ❑
Bidding and estimating	A ❑	F ❑	S ❑	N ❑	A ❑	F ❑	S ❑	N ❑
Major purchasing decisions	A ❑	F ❑	S ❑	N ❑	A ❑	F ❑	S ❑	N ❑
Marketing and sales	A ❑	F ❑	S ❑	N ❑	A ❑	F ❑	S ❑	N ❑
Supervises field operations	A ❑	F ❑	S ❑	N ❑	A ❑	F ❑	S ❑	N ❑
Attend bid opening and lettings	A ❑	F ❑	S ❑	N ❑	A ❑	F ❑	S ❑	N ❑
Perform office management (billing, accounts receivable/payable, etc.)	A ❑	F ❑	S ❑	N ❑	A ❑	F ❑	S ❑	N ❑
Hires and fires management staff	A ❑	F ❑	S ❑	N ❑	A ❑	F ❑	S ❑	N ❑
Hire and fire field staff or crew	A ❑	F ❑	S ❑	N ❑	A ❑	F ❑	S ❑	N ❑
Designates profits spending or investment	A ❑	F ❑	S ❑	N ❑	A ❑	F ❑	S ❑	N ❑
Obligates business by contract/credit	A ❑	F ❑	S ❑	N ❑	A ❑	F ❑	S ❑	N ❑
Purchase equipment	A ❑	F ❑	S ❑	N ❑	A ❑	F ❑	S ❑	N ❑
Signs business checks	A ❑	F ❑	S ❑	N ❑	A ❑	F ❑	S ❑	N ❑

2. Complete for all Officers, Directors, Managers, and Key Personnel who are responsible for the following functions of the firm. *(Attach separate sheets as needed).*

A= Always S = Seldom F = Frequently N = Never	Officer/Director/Manager/Key Personnel Name: _____ Title: _____ Race and Gender: _____ Percent Owned:				Officer/Director/Manager/ Key Personnel Name: _____ Title: _____ Race and Gender: _____ Percent Owned:			
Sets policy for company direction/scope of operations	A ☐	F ☐	S ☐	N ☐	A ☐	F ☐	S ☐	N ☐
Bidding and estimating	A ☐	F ☐	S ☐	N ☐	A ☐	F ☐	S ☐	N ☐
Major purchasing decisions	A ☐	F ☐	S ☐	N ☐	A ☐	F ☐	S ☐	N ☐
Marketing and sales	A ☐	F ☐	S ☐	N ☐	A ☐	F ☐	S ☐	N ☐
Supervises field operations	A ☐	F ☐	S ☐	N ☐	A ☐	F ☐	S ☐	N ☐
Attend bid opening and lettings	A ☐	F ☐	S ☐	N ☐	A ☐	F ☐	S ☐	N ☐
Perform office management (billing, accounts receivable/payable, etc.)	A ☐	F ☐	S ☐	N ☐	A ☐	F ☐	S ☐	N ☐
Hires and fires management staff	A ☐	F ☐	S ☐	N ☐	A ☐	F ☐	S ☐	N ☐
Hire and fire field staff or crew	A ☐	F ☐	S ☐	N ☐	A ☐	F ☐	S ☐	N ☐
Designates profits spending or investment	A ☐	F ☐	S ☐	N ☐	A ☐	F ☐	S ☐	N ☐
Obligates business by contract/credit	A ☐	F ☐	S ☐	N ☐	A ☐	F ☐	S ☐	N ☐
Purchase equipment	A ☐	F ☐	S ☐	N ☐	A ☐	F ☐	S ☐	N ☐
Signs business checks	A ☐	F ☐	S ☐	N ☐	A ☐	F ☐	S ☐	N ☐

Do any of the persons listed in B1 or B2 perform a management or supervisory function for any other business? If Yes, identify the person, the business, and their title/function:

Do any of the persons listed above own or work for any other firm(s) that has a relationship with this firm? *(e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)* If Yes, describe the nature of the business relationship: _____

C. Inventory: Indicate your firm's inventory in the following categories *(Please attach additional sheets if needed):*=

1. Equipment and Vehicles

	Make and Model	**Current Value**	**Owned or Leased by Firm or Owner?**	**Used as collateral?**	**Where is item stored?**
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					

2. Office Space

Street Address Owned or Leased by Firm or Owner? Current Value of Property or Lease

_____

_____

_____

3. Storage Space *(Provide signed lease agreements for the properties listed)*

Street Address	Owned or Leased by Firm or Owner?	Current Value of Property or Lease

D. Does your firm rely on any other firm for management functions or employee payroll? ❑ Yes ❑ No

E. Financial/Banking Information *(Provide bank authorization and signature cards)*

Name of bank: _____ City and State: _____
The following individuals are able to sign checks on this account: _____

Name of bank: _____ City and State: _____
The following individuals are able to sign checks on this account: _____

Bonding Information: If you have bonding capacity, identify the firm's bonding aggregate and project limits:
Aggregate limit $ _____ Project limit $ _____

F. Identify all sources, amounts, and purposes of money loaned to your firm including from financial institutions. Identify whether you the owner and any other person or firm loaned money to the applicant DBE/ACDBE. Include the names of any persons or firms guaranteeing the loan, if other than the listed owner. *(Provide copies of signed loan agreements and security agreements).*

	Name of Source	Address of Source	Name of Person Guaranteeing the Loan	Original Amount	Current Balance	Purpose of Loan
1.						
2.						
3.						

G. List all contributions or transfers of assets to/from your firm and to/from any of its owners or another individual over the past two years *(Attach additional sheets if needed)*:

	Contribution/Asset	Dollar Value	From Whom Transferred	To Whom Transferred	Relationship	Date of Transfer
1.						
2.						
3.						

H. List current licenses/permits held by any owner and/or employee of your firm
(e.g. contractor, engineer, architect, etc.)(Attach additional sheets if needed):

	Name of License/Permit Holder	Type of License/Permit	Expiration Date	State
1.				
2.				
3.				

I. List the three largest contracts completed by your firm in the past three years, if any:

Name of Owner/Contractor	Name/Location of Project	Type of Work Performed	Dollar Value of Contract
1.			
2.			
3.			

J. List the three largest active jobs on which your firm is currently working:

Name of Prime Contractor and Project Number	Location of Project	Type of Work	Project Start Date	Anticipated Completion Date	Dollar Value of Contract
1.					
2.					
3.					

Additional Information:

SECTION 5 - AIRPORT CONCESSION

(ACDBE APPLICANTS ONLY)

A. **I am applying for ACDBE certification to:** *(check all that apply)*

☐ **Operate a concession at an airport** ☐ **Supply a good or service to an airport concessionaire**

B. **Does the applicant firm own/operate any off-airport locations?** ☐ **Yes** ☐ **No** *If Yes,* identify *the following*

Type of Business (e.g., F&B, News & Gift, Retail, Duty Free, Advertising, etc.)	**Lease Term** (years)	**Lease Start Date**	**Address / Location**	**Annual Gross Receipts Generated**

C. **Does the applicant firm currently own/operate any airport concession locations?** ☐**Yes** ☐**No** *If Yes, supply the following information:*

Airport Name	**Concession Type** (e.g., F&B, News & Gift, Retail, Duty Free, Advertising, etc.)	**Number of Leases**	**Number of Locations**	**Annual Gross Receipts Generated**	**Lease Type** *(e.g. Direct Lease, Subcontract Management Agreement, etc. enter all that apply to the leases listed)*

D. **Does the applicant firm have any affiliates?** ☐**Yes** ☐**No** *If Yes, provide the following information concerning any locations owned/operated by affiliate firms.*

Airport Name	**Concession Type** (e.g., F&B, News & Gift, Retail, Duty Free, Advertising, etc.)	**Number of Leases**	**Number of Locations**	**Annual Gross Receipts Generated**	**Lease Type** *(e.g. Direct Lease, Subcontract Management Agreement, etc. enter all that apply to the leases listed)*

E. **Is the ACDBE applicant firm a participant in any joint ventures?** ☐**Yes** ☐**No** *If Yes, attach all original and any amended Joint Venture Agreements and any amendments to the agreements.*

AFFIDAVIT OF CERTIFICATION

This form must be signed and notarized for <u>each</u> owner upon which disadvantaged status is relied.

A MATERIAL OR FALSE STATEMENT OR OMISSION MADE IN CONNECTION WITH THIS APPLICATION IS SUFFICIENT CAUSE FOR DENIAL OF CERTIFICATION, REVOCATION OF A PRIOR APPROVAL, INITIATION OF SUSPENSION OR DEBARMENT PROCEEDINGS, AND MAY SUBJECT THE PERSON AND/OR ENTITY MAKING THE FALSE STATEMENT TO ANY AND ALL CIVIL AND CRIMINAL PENALTIES AVAILABLE PURSUANT TO APPLICABLE FEDERAL AND STATE LAW.

I _____ (full name printed), swear or affirm under penalty of law that I am _____(title) of the applicant firm _____ and that I have read and understood all of the questions in this application and that all of the foregoing information and statements submitted in this application and its attachments and supporting documents are true and correct to the best of my knowledge, and that all responses to the questions are full and complete, omitting no material information. The responses include all material information necessary to fully and accurately identify and explain the operations, capabilities and pertinent history of the named firm as well as the ownership, control, and affiliations thereof.

I recognize that the information submitted in this application is for the purpose of inducing certification approval by a government agency. I understand that a government agency may, by means it deems appropriate, determine the accuracy and truth of the statements in the application, and I authorize such agency to contact any entity named in the application, and the named firm's bonding companies, banking institutions, credit agencies, contractors, clients, and other certifying agencies for the purpose of verifying the information supplied and determining the named firm's eligibility.

I agree to submit to government audit, examination and review of books, records, documents and files, in whatever form they exist, of the named firm and its affiliates, inspection of its places(s) of business and equipment, and to permit interviews of its principals, agents, and employees. I understand that refusal to permit such inquiries shall be grounds for denial of certification.

If awarded a contract, subcontract, concession lease or sublease, I agree to promptly and directly provide the prime contractor, if any, and the Department, recipient agency, or federal funding agency on an ongoing basis, current, complete and accurate information regarding (1) work performed on the project; (2) payments; and (3) proposed changes, if any, to the foregoing arrangements.

I agree to provide written notice to the recipient agency or Unified Certification Program of any material change in the information contained in the original application within 30 calendar days of such change (e.g., ownership changes, address/telephone number, personal net worth exceeding $1.32 million, etc.).

I acknowledge and agree that any misrepresentations in this application or in records pertaining to a contract or subcontract will be grounds for terminating any contract or subcontract which may be awarded; denial or revocation of certification; suspension and debarment; and for initiating action under federal and/or state law concerning false statement, fraud or other applicable offenses.

I certify that I am a socially and economically disadvantaged individual who is an owner of the above-referenced firm seeking certification as a Disadvantaged Business Enterprise or Airport Concession Disadvantaged Business Enterprise. In support of my application, I certify that I am a member of one or more of the following groups, and that I have held myself out as a member of the group(s): (Check all that apply):

❑ Female ❑ Black American ❑ Hispanic American
❑ Native American ❑ Asian-Pacific American
❑ Subcontinent Asian American ❑ Other (specify)

_____

I certify that I am socially disadvantaged because I have been subjected to racial or ethnic prejudice or cultural bias, or have suffered the effects of discrimination, because of my identity as a member of one or more of the groups identified above, without regard to my individual qualities.

I further certify that my personal net worth does not exceed $1.32 million, and that I am economically disadvantaged because my ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially and economically disadvantaged.

I declare under penalty of perjury that the information provided in this application and supporting documents is true and correct.

Signature _____ _____
(DBE/ACDBE Applicant) (Date)

<u>NOTARY CERTIFICATE</u>

UNIFORM CERTIFICATION APPLICATION
SUPPORTING DOCUMENTS CHECKLIST

In order to complete your application for DBE or ACDBE certification, you must attach copies of all of the following REQUIRED documents. A failure to supply any information requested by the UCP may result in your firm denied DBE/ACDBE certification.

Required Documents for All Applicants

☐ Résumés (that include places of employment with corresponding dates), for all owners, officers, and key personnel of the applicant firm
☐ Personal Net Worth Statement for each socially and economically disadvantaged owners who the applicant firm relies upon to satisfy the Regulation's 51% ownership requirement.
☐ Personal Federal tax returns for the past 3 years, if applicable, for each disadvantaged owner
☐ Federal tax returns (and requests for extensions) filed by the firm and its affiliates with related schedules, for the past 3 years.
☐ Documented proof of contributions used to acquire ownership for each owner (*e.g., both sides of cancelled checks*)
☐ Signed loan and security agreements, and bonding forms
☐ List of equipment and/or vehicles owned and leased including VIN numbers, copy of titles, proof of ownership, insurance cards for each vehicle.
☐ Title(s), registration certificate(s), and U.S. DOT numbers for each truck owned or operated by your firm
☐ Licenses, license renewal forms, permits, and haul authority forms
☐ Descriptions of all real estate (including office/storage space, etc.) owned/leased by your firm and documented proof of ownership/signed leases
☐ Documented proof of any transfers of assets to/from your firm and/or to/from any of its owners over the past 2 years
☐ DBE/ACDBE and SBA 8(a), SDB, MBE/WBE certifications, denials, and/or decertification's, if applicable; and any U.S. DOT appeal decisions on these actions.
☐ Bank authorization and signatory cards
☐ Schedule of salaries (or other remuneration) paid to all officers, managers, owners, and/or directors of the firm
☐ List of all employees, job titles, and dates of employment.
☐ Proof of warehouse/storage facility ownership or lease arrangements

Partnership or Joint Venture

☐ Original and any amended Partnership or Joint Venture Agreements

Corporation or LLC

☐ Official Articles of Incorporation (*signed by the state official*)
☐ Both sides of all corporate stock certificates and your firm's stock transfer ledger
☐ Shareholders' Agreement(s)
☐ Minutes of all stockholders and board of director's meetings
☐ Corporate by-laws and any amendments
☐ Corporate bank resolution and bank signature cards
☐ Official Certificate of Formation and Operating Agreement with any amendments (for LLCs)

Optional Documents to Be Provided on Request

The certifying agency to which you are applying may require the submission of the following documents. If requested to provide these document, you must supply them with your application or at the on-site visit.

☐ Proof of citizenship
☐ Insurance agreements for each truck owned or operated by your firm
☐ Audited financial statements (if available)
☐ Trust agreements held by any owner claiming disadvantaged status
☐ Year-end balance sheets and income statements for the past 3 years (*or life of firm, if less than three years*)

Suppliers

☐ List of product lines carried and list of distribution equipment owned and/or leased

AFFIDAVIT OF CERTIFICATION

*This form must be signed and notarized for **each** owner upon which disadvantaged status is relied.*

A MATERIAL OR FALSE STATEMENT OR OMISSION MADE IN CONNECTION WITH THIS APPLICATION IS SUFFICIENT CAUSE FOR DENIAL OF CERTIFICATION, REVOCATION OF A PRIOR APPROVAL, INITIATION OF SUSPENSION OR DEBARMENT PROCEEDINGS, AND MAY SUBJECT THE PERSON AND/OR ENTITY MAKING THE FALSE STATEMENT TO ANY AND ALL CIVIL AND CRIMINAL PEALTIES AVAILABLE PURSUANT TO APPLICABLE FEDERAL AND STATE LAW.

I _____ (full name printed), swear or affirm under penalty of law that I am _____ (title) of applicant firm _____ (firm name) and that I have read and understood all of the questions in this application and that all of the foregoing information and statements submitted in this application and its attachments and supporting documents are true and correct to the best of my knowledge, and that all responses to the questions are full and complete, omitting no material information. The responses include all material information necessary to fully and accurately identify and explain the operations, capabilities and pertinent history of the named firm as well as the ownership, control, and affiliations thereof.

I recognize that the information submitted in this application is for the purpose of inducing certification approval by a government agency. I understand that a government agency may, by means it deems appropriate, determine the accuracy and truth of the statements in the application, and I authorize such agency to contact any entity named in the application, and the named firm's bonding companies, banking institutions, credit agencies, contractors, clients, and other certifying agencies for the purpose of verifying the information supplied and determining the named firm's eligibility.

I agree to submit to government audit, examination and review of books, records, documents and files, in whatever form they exist, of the named firm and its affiliates, inspection of its places(s) of business and equipment, and to permit interviews of its principals, agents, and employees. I understand that refusal to permit such inquiries shall be grounds for denial of certification.

If awarded a contract or subcontract, I agree to promptly and directly provide the prime contractor, if any, and the Department, recipient agency, or federal funding agency on an ongoing basis, current, complete and accurate information regarding (1) work performed on the project; (2) payments; and (3) proposed changes, if any, to the foregoing arrangements.

I agree to provide written notice to the recipient agency or Unified Certification Program (UCP) of any material change in the information contained in the original application within 30 calendar days of such change (e.g, ownership, address, telephone number, etc.).

I acknowledge and agree that any misrepresentations in this application or in records pertaining to a contract or subcontract will be grounds for terminating any contract or subcontract which may be awarded; denial or revocation of certification; suspension and debarment; and for initiating action under federal and/or state law concerning false statement, fraud or other applicable offenses.

I certify that I am a socially and economically disadvantaged individual who is an owner of the above-referenced firm seeking certification as a Disadvantaged Business Enterprise (DBE). In support of my application, I certify that I am a member of one or more of the following groups, and that I have held myself out as a member of the group(s) (circle all that apply):

Female Black American Hispanic American Native American
Asian Pacific American Subcontinent Asian American
Other (specify) _____

I certify that I am socially disadvantaged because I have been subjected to racial or ethnic prejudice or cultural bias, or have suffered the effects of discrimination, because of my identity as a member of one or more of the groups identified above, without regard to my individual qualities.

I further certify that my personal net worth does not exceed $1.32 million, and that I am economically disadvantaged because my ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially and economically disadvantaged.

I declare under penalty of perjury that the information provided in this application and supporting documents is true and correct.

Executed on _____ (Date)

Signature _____
(DBE Applicant)

NOTARY CERTIFICATE

U.S. Department of Transportation

Personal Net Worth Statement For DBE/ACDBE Program Eligibility

As of _____

OMB APPROVAL NO: 2105-0510
EXPIRATION DATE: 10/31/2021

This form is used by all participants in the U.S. Department of Transportation's Disadvantaged Business Enterprise (DBE) and Airport Concession DBE (ACDBE) Programs. Each individual owner of a firm applying to participate as a DBE or ACDBE, whose ownership and control are relied upon for DBE certification must complete this form. Each person signing this form authorizes the certifying agency to make inquiries as necessary to verify the accuracy of the statements made. The agency you apply to will use the information provided to determine whether an owner is economically disadvantaged as defined in the DBE program regulations 49 C.F.R. Parts 23 and 26. **Return form to appropriate certifying agency, not U.S. DOT.**

Applicant Name:		
Residence: (As reported to the IRS) Address, City, State and Zip Code		Residence Phone
Business Name of Applicant Firm		Business Phone
Marital Status: ☐ Single, ☐ Married, ☐ Divorced, ☐ Union	Spouse's Full Name:	

ASSETS	(Omit Cents)	**LIABILITIES**	(Omit Cents)
Cash and Cash Equivalents	$	Loan on Life Insurance (Complete Section 5)	$
Retirement Accounts (IRAs, 401Ks, 403Bs, Pensions, etc.) (Report full value minus tax and interest penalties that would apply if assets were distributed today) (Complete Section 3)	$	Mortgages on Real Estate Excluding Primary Residence Debt (Complete Section 4)	$
Brokerage, Investment Accounts	$	Notes, Obligations on Personal Property (Complete Section 6)	$
Assets Held in Trust	$	Notes & Accounts Payable to Banks and Others (Complete Section 2)	$
Loans from You to the Firm, Other Entities, Individuals, & Other Receivables (Complete Section 6)	$	Other Liabilities (Complete Section 8)	$
Real Estate Excluding Primary Residence (Complete Section 4)	$	Unpaid Taxes (Complete Section 8)	$
Life Insurance (Cash Surrender Value Only) (Complete Section 5)	$		
Other Personal Property and Assets (Complete Section 6)	$		
Business Interests Other Than the Applicant Firm (Complete Section 7)	$		
Total Assets	$	Total Liabilities	$
		NET WORTH	

Section 2. Notes Payable to Banks and Others

Name of Noteholder(s)	Original Balance	Current Balance	Payment Amount	Frequency (monthly, etc.)	How Secured or Endorsed Type of Collateral

Section 3. Brokerage and custodial accounts, stocks, bonds, retirement accounts. (Full Value) (Use attachments if necessary).

Name of Security / Brokerage Account / Retirement Account	Cost	Market Value Quotation/Exchange	Date of Quotation/Exchange	Total Value

Section 4. Real Estate Owned (Including Primary Residence, Investment Properties, Personal Property Leased or Rented for Business Purposes, Farm Properties, or any Other Income Producing property). (List each parcel separately. Add additional sheets if necessary).

	Primary Residence	Property B	Property C
Type of Property			
Address			
Date Acquired and Method of Acquisition (purchase, inherit, divorce, gift, etc.)			
Names on Deed			
Purchase Price			
Present Market Value			
Source of Market Valuation			
Name of all Mortgage Holders			
Mortgage Acc. # and balance (as of date of form)			
Equity line of credit balance			
Amount of Payment Per Month/Year (Specify)			

Section 5. Life Insurance Held (Give face amount and cash surrender value of policies, name of insurance company and beneficiaries).

Insurance Company	Face Value	Cash Surrender Amount	Beneficiaries	Loan on Policy Information

Section 6. Other Personal Property and Assets (Use attachments as necessary)

Type of Property or Asset	Total Present Value	Amount of Liability (Balance)	Is this asset insured?	Lien or Note amount and Terms of Payment
Automobiles and Vehicles (including recreation vehicles, motorcycles, boats, etc.) Include personally owned vehicles that are leased or rented to businesses or other individuals.				
Household Goods / Jewelry				
Loans from Owner to Firm, Other Entities, Individuals				
Other (List)				
Accounts and Notes Receivables				

Section 7. Value of Other Business Investments, Other Businesses Owned (excluding applicant firm)
Sole Proprietorships, General Partners, Joint Ventures, Limited Liability Companies, Closely-held and Public Traded Corporations

Section 8. Other Liabilities and Unpaid Taxes (Describe)

Section 9. Transfer of Assets: Have you within 2 years of this personal net worth statement, transferred assets to a spouse, domestic partner, relative, or entity in which you have an ownership or beneficial interest including a trust? Yes ☐ No ☐ If yes, describe.

I declare under penalty of perjury that the information provided in this personal net worth statement and supporting documents is complete, true and correct. I certify that no assets have been transferred to any beneficiary for less than fair market value in the last two years. I recognize that the information submitted in this application is for the purpose of inducing certification approval by a government agency. I understand that a government agency may, by means it deems appropriate, determine the accuracy and truth of the statements in the application and this personal net worth statement, and I authorize such agency to contact any entity named in the application or this personal financial statement, including the names banking institutions, credit agencies, contractors, clients, and other certifying agencies for the purpose of verifying the information supplied and determining the named firm's eligibility. I acknowledge and agree that any misrepresentations in this application or in records pertaining to a contract or subcontract will be grounds for terminating any contract or subcontract which may be awarded; denial or revocation of certification; suspension and debarment; and for initiating action under federal and/or state law concerning false statement, fraud or other applicable offenses.

NOTARY CERTIFICATE:
(Insert applicable state acknowledgment, affirmation, or oath)

Signature (DBE/ACDBE Owner) Date

In collecting the information requested by this form, the Department of Transportation complies with Federal Freedom of Information and Privacy Act (5 U.S.C. 552 and 552a) provisions. The Privacy Act provides comprehensive protections for your personal information. This includes how information is collected, used, disclosed, stored, and discarded. Your information will not be disclosed to third parties without your consent. The information collected will be used solely to determine your firm's eligibility to participate in the Disadvantaged Business Enterprise (DBE) Program or Airport Concessionaire DBE Programs as defined in 49 C.F.R. Parts 23 and 26. You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).

General Instructions for Completing the Personal Net Worth Statement for DBE/ACDBE Program Eligibility

Please do not make adjustments to your figures pursuant to U.S. DOT regulations 49 C.F.R. Parts 23 and 26. The agency that you apply to will use the information provided on your completed Personal Net Worth (PNW) Statement to determine whether you meet the economic disadvantage requirements of 49 C.F.R. Parts 23 and 26. If there are discrepancies or questions regarding your form, it may be returned to you to correct and complete again.

An individual's personal net worth according to 49 C.F.R. Parts 23 and 26 includes only his or her own share of assets held separately, jointly, or as community property with the individual's spouse and excludes the following:

- Individual's ownership interest in the applicant firm;
- Individual's equity in his or her primary residence;
- Federal Tax and penalties, if applicable, that would accrue if retirement savings or investments (e.g., pension plans, Individual Retirement Accounts, 401(k) accounts, etc.) were distributed at the present time.

Indicate on the form if any items are jointly owned. If the personal net worth of the majority owner(s) of the firm exceeds $1.32 million, as defined by 49 C.F.R. Parts 23 and 26, the firm is not eligible for DBE or ACDBE certification. If the personal net worth of the majority owner(s) exceeds the $1.32 million cap specified in §26.67(a)(2)(i) at any time after your firm is certified, the firm is no longer eligible for certification. Should that occur, it is your responsibility to contact your certifying agency in writing to advise that your firm no longer qualifies as a DBE or ACDBE. You must fill out all line items on the Personal Net Worth Statement.

If necessary, use additional sheets of paper to report all information and details. If you have any questions about completing this form, please contact the certifying agency.

Assets

All assets must be reported at their current fair market values as of the date of your statement. Assessor's assessed value for real estate, for example, is not acceptable. Assets held in a trust should be included.

Cash and Cash Equivalents: On page 1, enter the total amount of cash or cash equivalents in bank accounts, including checking, savings, money market, certificates of deposit held domestic or foreign. Provide copies of the bank statement.

Retirement Accounts, IRA, 401Ks, 403Bs, Pensions: On page 1, enter the full value minus Federal tax and penalties that would apply if assets were distributed as of the date of the form. Describe the number of shares, name of securities, cost market value, date of quotation, and total value in section 3 on page 2.

Brokerage and Custodial Accounts, Stocks, Bonds, Retirement Accounts: Report total value on page 1, and on page 2, section 3, enter the name of the security, brokerage account, retirement account, etc.; the cost; market value of the asset; the date of quotation; and total value as of the date of the PNW statement.

Assets Held in Trust: Enter the total value of the assets held in trust on page 1, and provide the names of beneficiaries and trustees, and other information in Section 6 on page 3.

Loans from you to the firm, other Entities, Individuals, and Other Receivables not listed: Enter current balances of loans you have extended to this firm and to other entities or individuals, plus interest payable on those loans; and other receivables not listed above. Complete Section 6 on page 3.

Real Estate: The total value of real estate excluding your primary residence should be listed on page 1. In section 4 on page 2, please list your primary residence in column 1, including the address, method of acquisition, date of acquired, names of deed, purchase price, present fair market value, source of market valuation, names of all mortgage holders, mortgage account number and balance, equity line of credit balance, and amount of payment. List this information for all real estate held. Please ensure that this section contains all real estate owned, including rental properties, vacation properties, commercial properties, personal property leased or rented for business purposes, farm properties and any other income producing properties, etc. Attach additional sheets if needed.

Life Insurance: On page 1, enter the cash surrender value of this asset. In section 5 on page 2, enter the name of the insurance company, the face value of the policy, cash surrender value, names of beneficiaries, and loans on the policy.

Other Personal Property and Assets: Enter the total value of personal property and assets you own on page 1. Personal property includes motor vehicles, boats, trailers, jewelry, furniture, household goods, collectibles, clothing, and personally owned vehicles that are leased or rented to businesses or other individuals. In section 6 on page 3, list these assets and enter the present value, the balance of any liabilities, whether the asset is insured, and lien or note information and terms of payments. For accounts and notes receivable, enter the total value of all monies owed to you personally, if any. You may also be asked to provide a copy of any liens or notes on the property.

Other Business Interests Other than Applicant Firm: On page 1, enter the total value of your other business investments (excluding the applicant firm). In section 7 on page 3, enter information concerning the businesses you hold an ownership interest in, such as sole proprietorships, partnerships, joint ventures, corporations, or limited liability corporations (other than the applicant firm). Do not reduce the value of these entries by any loans from the outside firm to the DBE/ACDBE applicant business.

Liabilities

Mortgages on Real Estate: Enter the total balance on all mortgages payable on real estate on page 1.

Loans on Life Insurance: Enter the total value of all loans due on life insurance policies on page 1, and complete section 5 on page 2.

Notes & Accounts Payable to Bank and Others: On page 1, section 2, enter details concerning any liability, including name of noteholders, original and current balances, payment terms, and security/collateral information. The entries should include automobile installment accounts. This should not, however, include any mortgage balances as this information is captured in section 4. Do not include loans for your business or mortgages for your properties in this section. You may be asked to submit copy of note/security agreement, and the most recent account statement.

Other Liabilities: On page 1, enter the total value due on all other liabilities not listed in the previous entries. In section 8, page 3, report the name of the individual obligated, names of co-signers, description of the liability, the name of the entity owed, the date of the obligation, payment amounts and terms. Note: Do not include contingent liabilities in this section. Contingent liabilities are liabilities that belong to you only if an event(s) should occur. For example, if you have co-signed on a relative's loan, but you are not responsible for the debt until your relative defaults, that is a contingent liability. Contingent liabilities do not count toward your net worth until they become actual liabilities.

Unpaid Taxes: Enter the total amount of all taxes that are currently due, but are unpaid on page 1, and complete section 8 on page 3. Contingent tax liabilities or anticipated taxes for current year should not be included. Describe in detail the name of the individual obligated, names of co-signers, the type of unpaid tax, to whom the tax is payable, due date, amount, and to what property, if any, the tax lien attaches. If none, state "NONE." You must include documentation, such as tax liens, to support the amounts.

Transfers of Assets:

Transfers of Assets: If you checked the box indicating yes on page 3 in this category, provide details on all asset transfers (within 2 years of the date of this personal net worth statement) to a spouse, domestic partner, relative, or entity in which you have an ownership or beneficial interest including a trust. Include a description of the asset; names of individuals on the deed, title, note or other instrument indicating ownership rights; the names of individuals receiving the assets and their relation to the transferor; the date of the transfer; and the value or consideration received. Submit documentation requested on the form related to the transfer.

Affidavit

Be sure to sign and date the statement. The Personal Net Worth Statement must be notarized.

Form **W-9**
(Massachusetts Substitute W-9 Form)
Rev. April 2009

Request for Taxpayer Identification Number and Certification

Completed form should be given to the requesting department or the department you are currently doing business with.

Please print or type

Name (List legal name, if joint names, list first & circle the name of the person whose TIN you enter in Part I-**See Specific Instruction** on page 2)

Business name, if different from above. (**See Specific Instruction** on page 2)

Check the appropriate box: ☐ Individual/Sole proprietor ☐ Corporation ☐ Partnership ☐ Other ▶----------

Legal Address: number, street, and apt. or suite no.	**Remittance Address**: if different from legal address number, street, and apt. or suite no.
City, state and ZIP code	**City, state and ZIP code**

Phone # ( ) Fax # ( ) Email address:

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. For individuals, this is your social security number (SSN). **However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instruction on page 2.** For other entities, it is your employer identification number (EIN). If you do not have a number, see **How to get a TIN** on page 2.

Note: *If the account is in more than one name, see the chart on page 2 for guidelines on whose number to enter.*

Social security number

☐☐☐-☐☐-☐☐☐☐

OR

Employer identification number

☐☐-☐☐☐☐☐☐☐

Vendors:
Dunn and Bradstreet Universal Numbering System (DUNS)

DUNS

☐☐☐☐☐☐☐☐☐

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), **and**
2. I am not subject to backup withholding because: **(a)** I am exempt from backup withholding, or **(b)** I have not been notified by the Internal Revenue Services (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or **(c)** the IRS has notified me that I am no longer subject to backup withholding, **and**
3. I am an U.S. person (including an U.S. resident alien).
4. I am currently a Commonwealth of Massachusetts's state employee: (check one): No____ Yes _____ If yes, **in compliance with** the State Ethics Commission **requirements.**

Certification instructions: You must cross out item **2** above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item **2** does not apply.

Sign Here | **Authorized Signature ▶** **Date ▶**

Purpose of Form

A person who is required to file an information return with the IRS must get your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to give your correct TIN to the person requesting it (the requester) and , when applicable, to:

1. Certify the TIN you are giving is correct (or you are waiting for a number to be issued).
2. Certify you are not subject to backup withholding

If you are a foreign person, use the appropriate Form W-8. See **Pub 515,** Withholding of Tax on Nonresident Aliens and Foreign Corporations.

What is backup withholding? Persons making certain payments to you must withhold a designated percentage, currently 28% and pay to the IRS of such payments under certain conditions. This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

If you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return, payments you receive will not be subject to backup withholding. **Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester, or
2. You do not certify your TIN when required (see the Part II instructions on page 2 for details), or
3. The IRS tells the requester that you furnished an incorrect TIN, or
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the Part II instructions on page 2.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of $50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a $500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of Federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name. If you are an individual, you must generally enter the name shown on your social security card. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first and then circle the name of the person or entity whose number you enter in Part I of the form.

Sole proprietor. Enter your **individual** name as shown on your social security card on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

Limited liability company (LLC). If you are a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Treasury regulations section 301.7701-3, **enter the owner's name on the "Name" line**. Enter the LLC's name on the "Business name" line.

Caution: *A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.*

Other entities. Enter your business name as shown on required Federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

Part I - Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box.

If you are a **resident alien** and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see **How to get a TIN** below.

If you are a **sole proprietor** and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are an **LLC** that is **disregarded as an entity** separate from its owner (see ***Limited liability company (LLC)*** above), and are owned by an individual, enter your SSN (or "pre-LLC" EIN, if desired). If the owner of a disregarded LLC is a corporation, partnership, etc., enter the owner's EIN.

Note: *See the chart on this page for further clarification of name and TIN combinations.*

How to get a TIN.

If you do not have a TIN, apply for one immediately. To apply for an SSN, get **Form SS-5**, Application for a Social Security Card, from your local Social Security Administration office. Get **Form W-7**, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN or **Form SS-4**, Application for Employer Identification Number, to apply for an EIN. You can get Forms W-7 and SS-4 from the IRS by calling 1-800-TAX-FORM (1-800-829-3676) or from the IRS's Internet Web Site www.irs.gov.

If you do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments.

The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: *Writing "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.*

Part II - Certification

To establish to the paying agent that your TIN is correct or you are a U.S. person, or resident alien, sign Form W-9.

For a joint account, only the person whole TIN is shown in Part I should sign (when required).

Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

Dunn and Bradstreet Universal Numbering System (DUNS) number requirement –
The United States Office of Management and Budget (OMB) requires all vendors that receive federal grant funds have their DUNS number recorded with and subsequently reported to the granting agency. If a contractor has multiple DUNS numbers the contractor should provide the primary number listed with the Federal government's Central Contractor Registration (CCR) at /www.ccr.gov . Any entity that does not have a DUNS number can apply for one on-line at http://www.dnb.com/us/
under the DNB D-U-N Number Tab.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to give your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA or MSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, and the District of Columbia to carry out their tax laws

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold a designated percentage, currently 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.

What Name and Number to Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account [1]
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor [2]
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee [1]
b. So-called trust account that is not a legal or valid trust under state law	The actual owner [1]
5. Sole proprietorship	The owner [3]
For this type of account:	**Give name and EIN of:**
6. Sole proprietorship	The owner [3]
7. A valid trust, estate, or pension trust	Legal entity [4]
8. Corporate	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

[1] List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

[2] Circle the minor's name and furnish the minor's SSN.

[3] You must show your individual name, but you may also enter your business or "DBA" name. You may use either your SSN or EIN (if you have one).

[4]. List first and circle the name of the legal trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.)

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

If you have questions on completing this form, please contact the Office of the State Comptroller. (617) 973-2468.

Upon completion of this form, please send it to the Commonwealth of Massachusetts Department you are doing business with.

COMMONWEALTH TERMS AND CONDITIONS

This Commonwealth Terms and Conditions form is jointly issued by the Executive Office for Administration and Finance (ANF), the Office of the Comptroller (CTR) and the Operational Services Division (OSD) for use by all Commonwealth of Massachusetts ("State") Departments and Contractors. ***Any changes or electronic alterations by either the Department or the Contractor to the official version of this form, as jointly published by ANF, CTR and OSD, shall be void.*** Upon execution of these Commonwealth Terms and Conditions by the Contractor and filing as prescribed by the Office of the Comptroller, these Commonwealth Terms and Conditions will be incorporated by reference into any Contract for Commodities and Services executed by the Contractor and any State Department, in the absence of a superseding law or regulation requiring a different Contract form. Performance shall include services rendered, obligations due, costs incurred, commodities and deliverables provided and accepted by the Department, programs provided or other commitments authorized under a Contract. A deliverable shall include any tangible product to be delivered as an element of performance under a Contract. The Commonwealth is entitled to ownership and possession of all deliverables purchased or developed with State funds. Contract shall mean the Standard Contract Form issued jointly by ANF, CTR and OSD.

1. ***Contract Effective Start Date.*** Notwithstanding verbal or other representations by the parties, or an earlier start date indicated in a Contract, the effective start date of performance under a Contract shall be the date a Contract has been executed by an authorized signatory of the Contractor, the Department, a later date specified in the Contract or the date of any approvals required by law or regulation, whichever is later.

2. ***Payments And Compensation.*** The Contractor shall only be compensated for performance delivered and accepted by the Department in accordance with the specific terms and conditions of a Contract. All Contract payments are subject to appropriation pursuant to M.G.L. C. 29, §26, or the availability of sufficient non-appropriated funds for the purposes of a Contract, and shall be subject to intercept pursuant to M.G.L. C. 7A, §3 and 815 CMR 9.00. Overpayments shall be reimbursed by the Contractor or may be offset by the Department from future payments in accordance with state finance law. Acceptance by the Contractor of any payment or partial payment, without any written objection by the Contractor, shall in each instance operate as a release and discharge of the State from all claims, liabilities or other obligations relating to the performance of a Contract.

3. ***Contractor Payment Mechanism.*** All Contractors will be paid using the Payment Voucher System unless a different payment mechanism is required. The Contractor shall timely submit invoices (Payment Vouchers - Form PV) and supporting documentation as prescribed in a Contract. The Department shall review and return rejected invoices within fifteen (15) days of receipt with a written explanation for rejection. Payments shall be made in accordance with the bill paying policy issued by the Office of the Comptroller and 815 CMR 4.00, provided that payment periods listed in a Contract of less than forty-five (45) days from the date of receipt of an invoice shall be effective only to enable a Department to take advantage of early payment incentives and shall not subject any payment made within the forty-five (45) day period to a penalty. The Contractor Payroll System, shall be used only for "Individual Contractors" who have been determined to be "Contract Employees" as a result of the Department's completion of an Internal Revenue Service SS-8 form in accordance with the Omnibus Budget Reconciliation Act (OBRA) 1990, and shall automatically process all state and federal mandated payroll, tax and retirement deductions.

4. ***Contract Termination Or Suspension.*** A Contract shall terminate on the date specified in a Contract, unless this date is properly amended in accordance with all applicable laws and regulations prior to this date, or unless terminated or suspended under this Section upon prior written notice to the Contractor. The Department may terminate a Contract without cause and without penalty, or may terminate or suspend a Contract if the Contractor breaches any material term or condition or fails to perform or fulfill any material obligation required by a Contract, or in the event of an elimination of an appropriation or availability of sufficient funds for the purposes of a Contract, or in the event of an unforeseen public emergency mandating immediate Department action. Upon immediate notification to the other party, neither the Department nor the Contractor shall be deemed to be in breach for failure or delay in performance due to Acts of God or other causes factually beyond their control and without their fault or negligence. Subcontractor failure to perform or price increases due to market fluctuations or product availability will not be deemed factually beyond the Contractor's control.

5. ***Written Notice.*** Any notice shall be deemed delivered and received when submitted in writing in person or when delivered by any other appropriate method evidencing actual receipt by the Department or the Contractor. Any written notice of termination or suspension delivered to the Contractor shall state the effective date and period of the notice, the reasons for the termination or suspension, if applicable, any alleged breach or failure to perform, a reasonable period to cure any alleged breach or failure to perform, if applicable, and any instructions or restrictions concerning allowable activities, costs or expenditures by the Contractor during the notice period.

6. ***Confidentiality.*** The Contractor shall comply with M.G.L. C. 66A if the Contractor becomes a "holder" of "personal data". The Contractor shall also protect the physical security and restrict any access to personal or other Department data in the Contractor's possession, or used by the Contractor in the performance of a Contract, which shall include, but is not limited to the Department's public records, documents, files, software, equipment or systems.

7. ***Record-keeping And Retention, Inspection Of Records.*** The Contractor shall maintain records, books, files and other data as specified in a Contract and in such detail as shall properly substantiate claims for payment under a Contract, for a minimum retention period of seven (7) years beginning on the first day after the final payment under a Contract, or such longer period as is necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving a Contract. The Department shall have access, as well as any parties identified under Executive Order 195, during the Contractor's regular business hours and upon reasonable prior notice, to such records, including on-site reviews and reproduction of such records at a reasonable expense.

8. ***Assignment.*** The Contractor may not assign or delegate, in whole or in part, or otherwise transfer any liability, responsibility, obligation, duty or interest under a Contract, with the exception that the Contractor shall be authorized to assign present and prospective claims for money due to the Contractor pursuant to a Contract in accordance with M.G.L. C. 106, §9-318. The Contractor must provide sufficient notice of assignment and supporting documentation to enable the Department to verify and implement the assignment. Payments to third party assignees will be processed as if such payments were being made directly to the Contractor and these payments will be subject to intercept, offset, counter claims or any other Department rights which are available to the Department or the State against the Contractor.

9. ***Subcontracting By Contractor.*** Any subcontract entered into by the Contractor for the purposes of fulfilling the obligations under a Contract must be in writing, authorized in advance by the Department and shall be consistent with and subject to the provisions of these Commonwealth Terms and Conditions and a Contract. Subcontracts will not relieve or discharge the Contractor from any duty, obligation, responsibility or liability arising under a Contract. The Department is entitled to copies of all subcontracts and shall not be bound by any provisions contained in a subcontract to which it is not a party.

10. ***Affirmative Action, Non-Discrimination In Hiring And Employment.*** The Contractor shall comply with all federal and state laws, rules and regulations promoting fair employment practices or prohibiting employment discrimination and unfair labor practices and shall not discriminate in the hiring of any applicant for employment nor shall any qualified employee be demoted, discharged or otherwise subject to discrimination in the tenure, position, promotional opportunities, wages, benefits or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, handicap, sexual orientation or for exercising any rights afforded by law. The Contractor commits to purchasing supplies and services from certified minority or women-owned businesses, small businesses or businesses owned by socially or economically disadvantaged persons or persons with disabilities.

11. ***Indemnification.*** Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, including the Department, its agents, officers and employees against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement or other damages that the State may sustain which arise out of or in connection with the Contractor's performance of a Contract, including but not limited to the negligence, reckless or intentional conduct of the Contractor, its agents, officers, employees or subcontractors. The Contractor shall at no time be considered an agent or representative of the Department or the State. After prompt notification of a claim by the State, the Contractor shall have an opportunity to participate in the defense of such claim and any negotiated settlement agreement or judgment. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph. Any indemnification of the Contractor shall be subject to appropriation and applicable law.

12. ***Waivers.*** Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies available to that party. No waiver by either party of any default or breach shall constitute a waiver of any subsequent default or breach.

13. ***Risk Of Loss.*** The Contractor shall bear the risk of loss for any Contractor materials used for a Contract and for all deliverables, Department personal or other data which is in the possession of the Contractor or used by the Contractor in the performance of a Contract until possession, ownership and full legal title to the deliverables are transferred to and accepted by the Department.

COMMONWEALTH TERMS AND CONDITIONS

14. ***Forum, Choice of Law And Mediation.*** Any actions arising out of a Contract shall be governed by the laws of Massachusetts, and shall be brought and maintained in a State or federal court in Massachusetts which shall have exclusive jurisdiction thereof. The Department, with the approval of the Attorney General's Office, and the Contractor may agree to voluntary mediation through the Massachusetts Office of Dispute Resolution (MODR) of any Contract dispute and will share the costs of such mediation. No legal or equitable rights of the parties shall be limited by this Section.

15. ***Contract Boilerplate Interpretation, Severability, Conflicts With Law, Integration.*** Any amendment or attachment to any Contract which contains conflicting language or has the affect of a deleting, replacing or modifying any printed language of these Commonwealth Terms and Conditions, as officially published by ANF, CTR and OSD, shall be interpreted as superseded by the official printed language. If any provision of a Contract is found to be superseded by state or federal law or regulation, in whole or in part, then both parties shall be relieved of all obligations under that provision only to the extent necessary to comply with the superseding law, provided however, that the remaining provisions of the Contract, or portions thereof, shall be enforced to the fullest extent permitted by law. All amendments must be executed by the parties in accordance with Section 1. of these Commonwealth Terms and Conditions and filed with the original record copy of a Contract as prescribed by CTR. The printed language of the Standard Contract Form, as officially published by ANF, CTR and OSD, which incorporates by reference these Commonwealth Terms and Conditions, shall supersede any conflicting verbal or written agreements relating to the performance of a Contract, or attached thereto, including contract forms, purchase orders or invoices of the Contractor. The order of priority of documents to interpret a Contract shall be as follows: the printed language of the Commonwealth Terms and Conditions, the Standard Contract Form, the Department's Request for Response (RFR) solicitation document and the Contractor's Response to the RFR solicitation, excluding any language stricken by a Department as unacceptable and including any negotiated terms and conditions allowable pursuant to law or regulation.

IN WITNESS WHEREOF, The Contractor certify under the pains and penalties of perjury that it shall comply with these Commonwealth Terms and Conditions for any applicable Contract executed with the Commonwealth as certified by their authorized signatory below:

CONTRACTOR AUTHORIZED SIGNATORY: _____
(signature)

Print Name: _____

Title: _____

Date: _____

(Check One): _____ Organization _____ Individual

Full Legal Organization or Individual Name: _____

Doing Business As: Name (If Different): _____

Tax Identification Number: ____ ____ ____ ____ ____ ____ ____ ____ ____

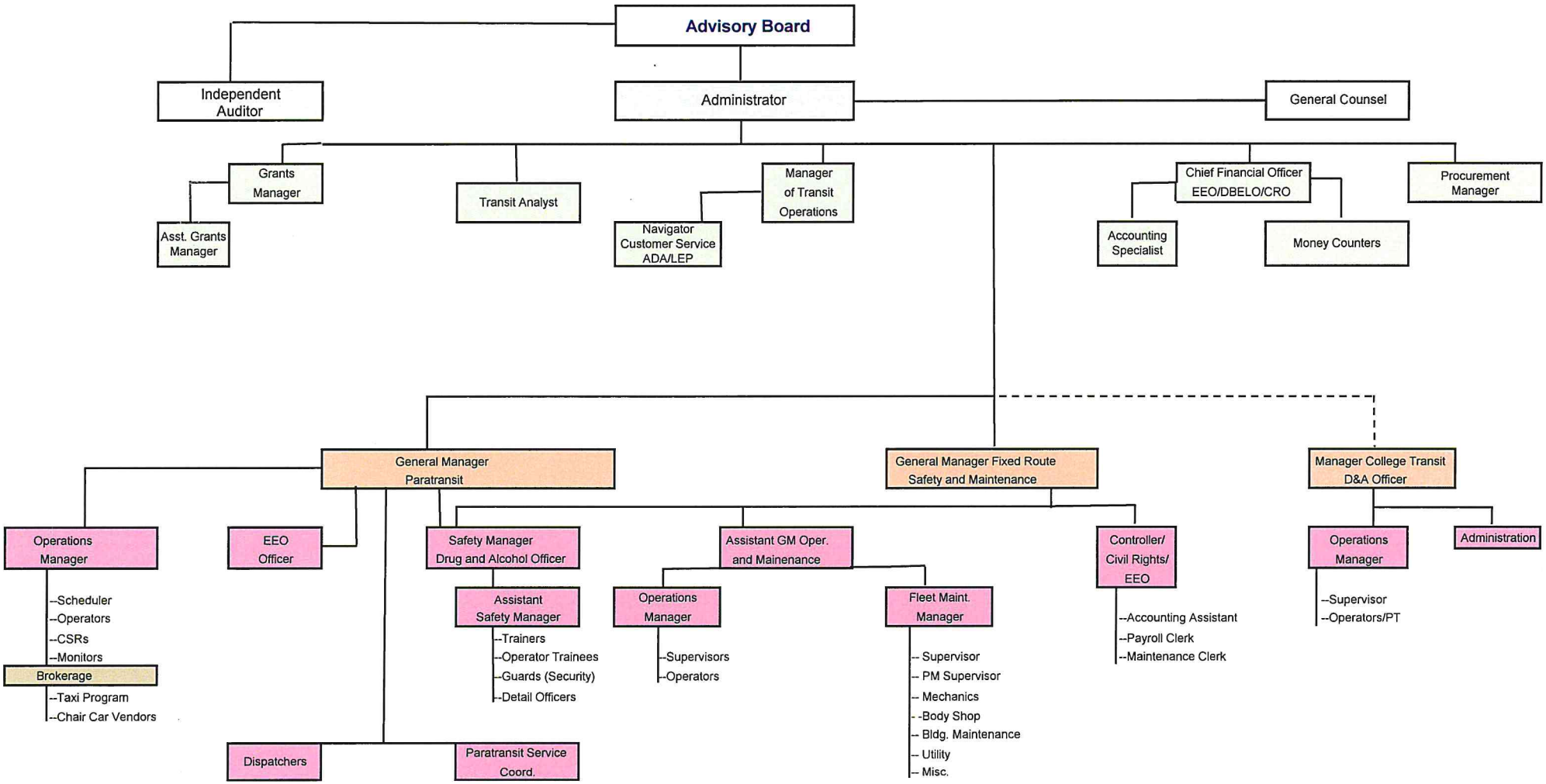
Address: _____

Telephone: _____ FAX: _____

INSTRUCTIONS FOR FILING THE COMMONWEALTH TERMS AND CONDITIONS

A "Request for Verification of Taxation Reporting Information" form (Massachusetts Substitute W-9 Format), that contains the Contractor's correct TIN, name and legal address information, must be on file with the Office of the Comptroller. If the Contractor has not previously filed this form with the Comptroller, or if the information contained on a previously filed form has changed, please fill out a W-9 form and return it attached to the executed COMMONWEALTH TERMS AND CONDITIONS.

If the Contractor is responding to a Request for Response (RFR), the COMMONWEALTH TERMS AND CONDITIONS must be submitted with the Response to RFR or as specified in the RFR. Otherwise, Departments or Contractors must timely submit the completed and properly executed COMMONWEALTH TERMS AND CONDITIONS (and the W-9 form if applicable) to the***: Payee and Payments Unit, Office of the Comptroller, 9th Floor, One Ashburton Place, Boston, MA 02108*** in order to record the filing of this form on the MMARS Vendor File. Contractors are required to execute and file this form only once.

Brockton Area Transit Authority

10/27/2021